

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2003 **VERSION:** AMENDED MARCH 14, 2006

AUTHOR: YEE AND KARNETTE **SPONSOR:** AUTHORS

RECOMMENDED POSITION: SUPPORT

SUBJECT: COMPREHENSIVE PUPIL LEARNING SUPPORT SYSTEM

Existing Law:

- 1) Defines "schoolsite" as any facility used for public day care, kindergarten, elementary, or secondary school purposes. (EC § 17609(e))
- 2) Defines "local educational agency" (LEA) as a school district or county office of education. (EC § 8802 (e))
- 3) Permits the governing board of any school district to provide a comprehensive educational counseling program for all pupils enrolled in the schools of the district. (EC § 49600(a))
- 4) Defines "educational counseling" as specialized services provided by a credentialed school counselor who is assigned specific times to directly counsel pupils. (EC § 49600(a))
- 5) Permits educational counseling to include, but not be limited to academic counseling; career and vocational counseling; and, personal and social skills counseling. (EC § 49600(b))

This Bill:

- 1) Establishes the Comprehensive Pupil Learning Support System (CPLSS) pilot program. (EC § 52059.1)
- 2) Requires the CPLSS to accomplish the following: (EC § 52059.1(a))
 - Increase the success of the No Child Left Behind Act (NCLB) in reducing the achievement gap among California pupils.
 - Address the findings of the Harvard University Civil Rights Project, including the difference in the high school graduation rate of 71 percent for all pupils in California and rate of 41 percent for certain minority groups.
 - Address the plateau effect of current pupil test scores.
- 3) Establishes the goal of the CPLSS as providing pupils with a support system to ensure that they will be productive and responsible learners and citizens. (EC § 52059.1(b))
- 4) Requires the CPLSS to ensure that pupils have an equal opportunity to succeed at school in a supportive, caring, respectful, and safe learning environment. (EC § 52059.1(b))
- 5) Requires each school's development, implementation, monitoring, and maintenance of a learning support system to: (EC § 52059.1(c))

- Involve pupils, teachers, pupil support professionals, family members, and other school and community stakeholders.
 - To combine the human and financial resources of relevant public and private agencies.
- 6) Requires the Department of Education (DOE), in collaboration with participating school districts, stakeholders, experts from institutions of higher education, and communities, to facilitate the establishment of the CPLSS by doing all of the following: (EC § 52059.2)
- Developing guidelines and procedures to assist in establishing the CPLSS at each school.
 - Providing ongoing technical assistance, leadership training, and other capacity-building supports.
 - Rethinking the roles of pupil services personnel and other support staff for pupils and integrating their responsibilities into the educational program in a way that meets the needs of pupils and educators.
 - Developing procedures for establishing infrastructure mechanisms between schools and school districts.
 - Coordinating with state, local, and community agencies that can play a role in strengthening the CPLSS.
 - Ensuring that the CPLSS is integrated within participating schools, school districts, and the department in a way that reflects individual schoolsite plans.
 - Enhancing collaboration with state and local agencies and other relevant resources to facilitate local collaboration and merging of resources.
 - Including an assessment of the CPLSS in all future school reviews and accountability reports.

7) See Below:

Requires CPLSS/Schoolsite Plans to be Developed for the Following Purposes:	Interventions may Include:	EC Section
<ul style="list-style-type: none"> • Enhancing the ability of teachers to address problems and engage pupils. • Fostering social, emotional, intellectual, and behavioral development. • Ensuring that teacher training and assistance includes strategies for addressing learning, behavior, and emotional problems in the classroom. 	<ul style="list-style-type: none"> • Addressing a greater range of pupil problems in the classroom through an increased emphasis on strategies for social and emotional development, problem prevention, and accommodation of differences in pupil motivation and ability. • Classroom management that emphasizes engagement of pupils in learning and minimizes over-reliance on social control strategies. • Collaboration with pupil support staff and the home, to foster responsibility, problem solving, resilience, and engagement in learning. 	(EC § 52059.3 (b)(1))
<ul style="list-style-type: none"> • Enhancing the capacity of schools to handle transition concerns for pupils and their families. • Establishing systems and programs to provide supports for the many transitions pupils, their families, and school staff encounter. 	<ul style="list-style-type: none"> • Welcoming and social support programs for newcomers. • Before, during, and after school programs to enrich learning and provide safe recreation. • Articulation programs to support grade transitions. • Addressing transition concerns related to vulnerable populations, including those in homeless, migrant, and special education. • Vocational and college counseling and school-to-career programs. • Support in moving to post-school living and work. • Outreach programs to reengage truants and dropouts. 	(EC § 52059.3 (b)(2))

<ul style="list-style-type: none"> • Responding to, minimizing the impact of, and preventing crisis. • Establishing systems and programs for emergency, crisis, and follow-up responses and for preventing crises at school. 	<ul style="list-style-type: none"> • Establishing a crisis team to ensure immediate response when emergencies arise, and to provide aftermath assistance as necessary. • School-wide and school-linked prevention programs to enhance safety at school and to reduce violence, bullying, harassment, abuse, and other threats to safety. • Classroom curriculum approaches focused on preventing crises, including violence, suicide, and physical or sexual abuse. 	(EC § 52059.3 (b)(3))
<ul style="list-style-type: none"> • Enhancing home involvement. • Ensuring there are systems, programs, and contexts established that lead to greater involvement to support the progress of pupils with learning, behavior, and emotional problems. 	<ul style="list-style-type: none"> • Interventions that address specific needs of the pupil's caretakers, including providing ways to enhance literacy and job skills and meet basic obligations to the pupils in their care. • Interventions for outreach and engaging homes that have disengaged from school involvement. • Improved systems for communication and connection between home and school. • Improved systems for home involvement in decisions and problem solving affecting the pupil. • Enhanced strategies for engaging the home in supporting the basic learning and development of the pupil to prevent or minimize learning, behavior, and emotional problems. 	(EC § 52059.3 (b)(4))
<ul style="list-style-type: none"> • Reaching out to the community in order to build linkages. • Ensuring that there are systems and programs established to provide outreach to and engage strategically with community resources to support learning for pupils with learning, behavior, and emotional problems. 	<ul style="list-style-type: none"> • Training, screening, and maintaining volunteers and mentors to assist school staff in enhancing pupil motivation and learning. • Job shadowing and service learning programs to enhance the expectations of pupils for post-graduation opportunities. • Enhancing school resources through linkages with community resources, including libraries, recreational facilities, and postsecondary education institutions. • Enhancing community and school connections to heighten a sense of community. 	(EC § 52059.3 (b)(5))
<ul style="list-style-type: none"> • Providing special assistance for pupils and families as necessary. • Establishing systems and programs to provide or connect with direct services to address barriers to learning. 	<ul style="list-style-type: none"> • Assistance for teachers in addressing the problems of specific individuals. • Processing requests and referrals for special assistance, including counseling or special education. • Ensuring effective case and resource management when pupils are receiving direct services. • Connecting with community service providers to fill gaps in school services and enhance access for referrals. 	(EC § 52059.3 (b)(6))

- 8) Requires individual schoolsite plans to include, but not be limited to, the following components: (EC § 52059.3 (c))
- Ensuring effective school mechanisms for assisting individuals and families with decision-making and timely, coordinated, and monitored referrals to school and community services.
 - Drawing on the expertise of pupil service personnel such as nurses, psychologists, counselors, social workers, speech and language pathologists, resource specialists, special education teachers, and child welfare attendance workers.
 - A mechanism for each school to have an administrative leader, support staff for pupils, and other stakeholders to work collaboratively, focusing on strengthening the individual schoolsite plan.

- A plan for capacity building and regular support for all stakeholders involved in addressing barriers to learning and promoting healthy development.
 - Training, technical assistance, and accountability reviews.
 - Minimizing duplication and fragmentation between school programs.
 - Preventing problems and providing early intervention.
 - Responding to pupil and staff problems in a timely manner.
 - Connecting with a wide range of school and community stakeholder resources.
 - Recognizing and responding to the changing needs of all pupils while promoting the success and well-being of each pupil and staff member.
 - Creating a supportive, caring, respectful, and safe learning environment.
- 9) Requires individual CPLSS schoolsite plans to do all of the following: (EC § 52059.4 (a-c))
- Be an essential component of all school improvement planning.
 - Be fully integrated with plans to improve instruction.
 - Focus on maximizing use of available resources at the school, school complex, and school district levels.
- 10) Requires the CPLSS component of the individual schoolsite plan to reflect all of the following: (EC § 52059.4(d))
- School policies, goals, guidelines, priorities, activities, procedures, and outcomes relating to implementing the CPLSS.
 - Effective leadership and staff roles and functions for the CPLSS.
 - A thorough infrastructure for the CPLSS.
 - Appropriate resource allocation.
 - Integrated school-community collaboration.
 - Regular capacity-building activity.
 - Delineated standards, quality and accountability indicators, and data collection procedures.
- 11) Defines "complex of schools" as a group of elementary, middle, or high schools associated with each other due to the natural progression of attendance linking the schools. (EC § 52059.5(a))
- 12) Requires CPLSS infrastructure mechanisms to be established at the school and district level to ensure cohesive development, efficient use of community resources, and capitalization on the savings in per pupil costs achieved by distributing those costs over a greater number of pupils. (EC § 52059.5(b))
- 13) Encourages a complex of schools to designate a pupil support staff member to facilitate a family complex CPLSS team consisting of representatives from each participating school. (EC § 52059.5(c))
- 14) Requires each school district implementing a CPLSS to establish mechanisms designed to build the capacity of CPLSS components at each participating school, including providing technical assistance and training. (EC § 52059.5(d))
- 15) Requires an independent agency selected by the DOE to evaluate the success of the CPLSS component according to the following criteria: (EC § 52059.6(a))
- Improved systems for promoting pro-social pupil behavior and the well-being of staff and pupils, preventing problems, intervening early after problems arise, and providing specialized assistance to pupils and families.
 - Increasingly supportive, caring, respectful, and safe learning environments at schools.

- Enhanced collaboration between the school and community.
 - The integration of the CPLSS component with all other school improvement plans.
 - Fewer inappropriate referrals of pupils to special education programs or other special services.
- 16) Requires the evaluation to consider all of the following items in determining the impact of the CPLSS, and the findings related to each item to be included in the School Accountability Report Card: (EC § 52059.6(b))
- Pupil attendance.
 - Pupil grades.
 - Academic performance.
 - Pupil behavior.
 - Home involvement.
 - Teacher retention.
 - Graduation rates for high school pupils.
 - Grade promotion for elementary, middle, and junior high schools.
 - Truancy rates.
 - Literacy development.
 - Other indicators required by the NCLB and in the California Healthy Kids Survey.
- 17) Requires the evaluation to compare the CPLSS components of schools that have similar records of pupil achievement at 3, 5, and 10 years after implementation of the CPLSS components. (EC § 52059.6(c))
- 18) Requires the DOE to develop a request for a grant application, to be submitted by school districts. Requires the DOE to award funding to five school districts based on the following criteria: (EC § 52059.7(a))
- The score of the school district on the grant application, as determined by the DOE.
 - Current receipt by the school district of funding pursuant to Title I of the NCLB.
 - The geographic and population characteristics of the school district.
- 19) Requires state funds appropriated for CPLSS purposes to be allocated as follows: (EC § 52059.7(b))
- \$400,000 to each school district selected by the DOE to receive a grant per calendar year for three years. Requires each of these school districts to identify a feeder pattern of one elementary school, one middle school, and one high school to receive funding.
 - \$1,000,000 to be apportioned to the DOE per year for three years to hire one education programs consultant and one analyst, to contract for training and technical assistance services, and to contract for formative and summative evaluations.
- 20) Establishes a component of the CPLSS designed to prevent pupil mental illness from becoming severe and disabling, that will: (WIC § 5884.10)
- Emphasize strategies to provide early identification of pupils with unmet mental health needs
 - Provide services to address those needs, thus reducing related negative outcomes including school failure or dropout.
- 21) Requires the Department of Mental Health (DMH) to enter into an interagency agreement with the DOE to establish a three-year pilot program designed to identify children who have unmet mental health needs and related unmet learning support needs with the goal of providing the services necessary to increase pupil success rates. (WIC § 5884.15(a))

- 22) Requires \$3,000,000 of the Mental Health Services Act funds appropriated to the DMH to be allocated in each of the fiscal years 2007-08, 2008-09, and 2009-10 for the purpose of funding the interagency agreement with the DOE. (WIC § 5884.15(b))
- 23) Requires all data obtained from the pilot project to be provided by the DOE to the DMH for review and possible incorporation into county mental health plans. Requires this information to be confidential and not identify any pupils. (WIC § 5884.20(a))
- 24) Requires the DMH, in consultation with the DOE, to report to the Legislature by August 1, 2009, regarding the progress of the pilot program and any recommendations. (WIC § 5884.20(b))

Comment:

- 1) **Author's Intent.** According to the author, the manner in which state law has addressed pupil learning supports has resulted in a marginal and fragmented set of activities at school sites. These laws include the different categorical programs that focus on the needs of different student populations without providing a comprehensive strategy. Existing programs are characterized as supplemental services and are among the first to go when budgets become tight. In effect, they are marginalized in policy and practice. The author contends that this bill establishes an infrastructure that focuses on learning support resources and how they can be used most effectively in schools and focuses on rethinking the roles and functions of all student service personnel.

This bill is based on work conducted by the University of California, Los Angeles (UCLA) Mental Health Project, which develops resources to facilitate the efforts of interested parties in "enhancing the way schools address barriers to learning and promoting healthy development." One of the resources the project focuses on is the need to develop a comprehensive and cohesive learning support component that schools can implement on a daily basis.

- 2) **Prior Legislation.** AB 2569 (Yee), introduced in 2004, was very similar to this bill and was held in suspense. AB 171 (Chu), introduced in 2005 and died the same year, was nearly identical but did not include the mental illness prevention program component.
- 3) **Support Programs.** The stated goal of this bill is to provide "pupils with a support system to ensure that they will be productive and responsible learners and citizens." The bill proposes to do this by involving pupils, teachers, pupil support professionals, family members, and other school and community stakeholders in the learning support system. This bill is designed to "prevent pupil mental illness from becoming severe and disabling."

Parenting programs are an effective strategy for early intervention as well as a strong influence in keeping teens in school, keeping youth engaged and motivated. Schools that use primary intervention programs have had a great deal of success because they address problems early, and permit schools to use paraprofessionals to act as 'healthy parents' in providing homework assistance, positive self-esteem, discipline, etc. Such services are much less expensive than psychological counseling which students cannot access through the schools until they have a seriously debilitating mental health issue.

- 4) **Other Support Programs.** A number of other school intervention programs exist both at the state and federal level. The state has the Healthy Start Support Services for Children Grant Program which provides planning and operational grants for case-managed health, mental health, social, and academic support services for pupils at schools that have a substantial

number of pupils who are economically disadvantaged or have limited English proficiency. The Immediate Intervention/Underperforming Schools Program allows underperforming schools to receive planning and operational grants. The state also funds programs for early intervention, English language learners, intensive reading programs, and after school programs.

At the federal level, Title I provides grants to local educational agencies primarily to serve economically disadvantaged students. It supports programs that improve student and family literacy skills, helps students reach proficiency in academics and testing, and prevent school dropouts. The federal No Child Left Behind Act requires student test results be reported annually for racial and ethnic groups, economically disadvantaged students, students whose primary language is not English, migrant students, and students with disabilities. If a school or district fails to make adequate yearly progress then they are provided time and help to improve, including funding.

- 5) **“AB 3632” Programs.** Special education students who need psychological counseling to help them succeed in school are able to receive such counseling funded by the federal government and individual counties. This is known as the “AB 3632” or “26.5” program. The state is supposed to reimburse the counties, which it has not yet done, and the state now owes over \$350 million to counties. To cover costs thus far, counties have received funding from a number of other sources, many of which are no longer available. The Legislative Analyst’s office recently issued a report stating their concerns with this program, citing inadequate funding, weak fiscal controls, increasing costs, lack of accountability, and weak linkages to education.
- 6) **Strategic Plan Objective 4.3 “Advocate for five laws that expand access to mental health services by June 30, 2010.”** This bill could qualify under this strategic plan objective should the Board decide to support it.

7) **Support and Opposition.**

Support:

California Association of School Psychologists
California School Nurses Organization

Opposition:

California Council of Community Mental Health Agencies
California Mental Health Directors' Association
Citizens Commission on Human Rights, Los Angeles/Hollywood Chapter

8) **History**

2006

Apr. 5	In committee: Set, first hearing. Hearing canceled at the request of author.
Mar. 15	Re-referred to Com. on ED.
Mar. 14	From committee chair, with author's amendments: Amend, and re-refer to Com. on ED. Read second time and amended.
Feb. 21	Referred to Coms. on ED. and HEALTH
Feb. 10	From printer. May be heard in committee March 12.
Feb. 9	Read first time. To print.

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AMENDED IN ASSEMBLY MARCH 14, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2003

**Introduced by Assembly ~~Member Karnette~~ Members *Yee and
Karnette*
(~~Coauthor: Assembly Member Yee~~)**

February 9, 2006

An act to add Chapter 6.4 (commencing with Section 52059.1) to Part 28 of the Education Code, and to add Chapter 3 (commencing with Section 5884.10) to Part 4 of Division 5 of the Welfare and Institutions Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 2003, as amended, ~~Karnette~~ *Yee*. Pupils.

(1) Existing law establishes various educational programs for pupils in elementary, middle, and high school to be administered by the State Department of Education.

This bill would establish the Comprehensive Pupil Learning Support System, a pilot program, to ensure that each pupil will be a productive and responsible learner and citizen. The bill would require the State Department of Education to administer and implement the program through funds that are made available to the department for the purposes of the program. The bill would require the department to adopt regulations to implement the program.

The bill would require each elementary, middle, and high school *involved in the pilot program* to develop an individual schoolsite plan based on guidelines to be developed by the State Department of Education. The bill would require each individual schoolsite plan to, among other things, enhance the capacity of each school to handle

transition concerns confronting pupils and their families, enhance home involvement, provide special assistance to pupils and families, and incorporate outreach efforts to the community.

By requiring public schools to perform additional duties, this bill would impose a state-mandated local program.

(2) Existing law, the Mental Health Services Act, imposes a tax of 1% on personal incomes over \$1,000,000 and continuously appropriates those funds for prescribed new mental health programs and services. Existing law requires the State Department of Mental Health to establish a new prevention and early intervention program to be funded with these funds.

This bill would require the new prevention and early intervention program to have a pupil mental health component, would require the department to enter into an interagency agreement with the State Department of Education for the establishment of a 3-year pilot program, would allocate, from funds continuously appropriated pursuant to the act, \$3,000,000 for each of the program's 3 fiscal years, for this purpose, and would require a report to the Legislature by August 31, 2009.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) The UCLA Center for Mental Health in Schools, the
- 4 WestEd Regional Educational Laboratory, the State Department
- 5 of Education, and other educational entities have adopted the
- 6 concept of learning support within ongoing efforts to address
- 7 barriers to pupil learning and to enhance healthy development.

1 (b) Learning supports are the resources, strategies, and
2 practices that provide physical, social, emotional, and intellectual
3 supports intended to enable all pupils to have an equal
4 opportunity for success at school. To accomplish this goal, a
5 comprehensive, multifaceted, and cohesive learning support
6 system should be integrated with instructional efforts and
7 interventions provided in classrooms and schoolwide to address
8 barriers to learning and teaching.

9 (c) There is a growing consensus among researchers,
10 policymakers, and practitioners that stronger collaborative efforts
11 by families, schools, and communities are essential to pupil
12 success.

13 (d) An increasing number of American children live in
14 communities where caring relationships, support resources, and a
15 profamily system of education and human services do not exist to
16 protect children and prepare them to be healthy, successful,
17 resilient learners.

18 (e) Especially in those communities, a renewed partnership of
19 schools, families, and community members must be created to
20 design and carry out system improvements to provide the
21 learning support required by each pupil in order to succeed.

22 (f) Learning support is the collection of resources, strategies
23 and practices, and environmental and cultural factors extending
24 beyond the regular classroom curriculum that together provide
25 the physical, emotional, and intellectual support that every pupil
26 needs to achieve high-quality learning.

27 (g) A school that has an exemplary learning support system
28 employs internal and external supports and services needed to
29 help pupils become good parents, good neighbors, good workers,
30 and good citizens of the world.

31 (h) The overriding philosophy is that educational success,
32 physical health, emotional support, and family and community
33 strength are inseparable.

34 (i) To implement the concept of learning supports, the state
35 must systematically realign and redefine new and existing
36 resources into a comprehensive system that is designed to
37 strengthen pupils, schools, families, and communities rather than
38 continuing to respond to these issues in a piecemeal and
39 fragmented manner.

(j) Development of learning supports at every school is essential in meeting the needs arising from the federal No Child Left Behind Act of 2001 and the Individuals with Disabilities Education Act, (IDEA). This includes the enhancement of academic performance, the reduction of pupil absences, behavior problems, inappropriate referrals for special education, and the number of pupils dropping out of schools. The state needs to ensure that each pupil is able to read, write, and relate effectively, has self-worth, has meaning-based learning opportunities, and has positive support networks from their peers, teachers, pupil support professionals, family members, and other school and community stakeholders.

(k) It is essential that each pupil becomes literate, confident, caring, and capable of thinking critically, solving problems, communicating effectively, and functioning as a contributing member of society.

(l) The education climate in the public schools of the state, as measured by overcrowded schools, absenteeism, increasing substance and alcohol abuse, school violence, sporadic parental involvement, dropouts, and other indicators, suggest that the state is in immediate need of learning supports.

~~(m) A learning support system needs to be developed at every school to ensure that pupils have essential support for learning, from kindergarten to high school.~~

~~(n)~~

(m) A learning support system should encompass school-based and school-linked activities designed to enable teachers to teach and pupils to learn. It should include a continuum of interventions that promote learning and development, prevent and respond early after the onset of problems, and provide correctional, and remedial programs and services. In the aggregate, a learning support system should create a supportive and respectful learning environment at each school.

~~(o)~~

(n) A learning support system is a primary and essential component at every school, designed to support learning and provide each pupil with an equal opportunity to succeed at school. The learning support system should be fully integrated into all school improvement efforts.

~~(p)~~

(o) The State Department of Education, other state agencies, local school districts, and local communities all devote resources to addressing learning barriers and promoting healthy development. Too often these resources are deployed in a fragmented, duplicative, categorical manner that results in misuse of sparse resources and failure to reach all the pupils and families in need of support. A learning support system will provide a unifying concept and context for linking with other organizations and agencies as needed and can be a focal point for braiding school and community resources into a comprehensive, multifaceted, and cohesive component at every school.

~~(q)~~
(p) It is the intent of the Legislature that the Comprehensive Pupil Learning Support System (CPLSS) is fully integrated with other efforts to improve instruction and focuses on maximizing the use of resources at individual schools and at the district level. Collaborative arrangements with community resources shall be developed with a view to filling any gaps in CPLSS components.

SEC. 2. Chapter 6.4 (commencing with Section 52059.1) is added to Part 28 of the Education Code, to read:

CHAPTER 6.4.
COMPREHENSIVE PUPIL LEARNING SUPPORT SYSTEM

52059.1. (a) There is hereby established the Comprehensive Pupil Learning Support System (CPLSS) pilot program, which shall accomplish all of the following objectives:

(1) Increase the success of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) in reducing the achievement gap among pupils in California.

(2) Address the findings of the Harvard University Civil Rights Project, including the difference in the high school graduation rate of 71 percent for all pupils in California and rate of 41 percent for pupils who are of certain minority groups.

(3) Address the plateau effect of current pupil test scores.

(b) The goal of the CPLSS is to provide pupils with a support system so as to ensure that they will be productive and responsible learners and citizens. The CPLSS shall ensure that pupils have an equal opportunity to succeed at school, and shall

1 do so in a supportive, caring, respectful, and safe learning
2 environment.

3 (c) These goals shall be accomplished by involving pupils,
4 teachers, pupil support professionals, family members, and other
5 school and community stakeholders in the development, daily
6 implementation, monitoring, and maintenance of a learning
7 support system at every school and by braiding together the
8 human and financial resources of relevant public and private
9 agencies.

10 52059.2. The department, in collaboration with participating
11 school districts, knowledgeable stakeholders, experts from
12 institutions of higher education, and communities, shall facilitate
13 the establishment of the CPLSS by doing all of the following:

14 (a) Developing guidelines and strategic procedures to assist
15 the establishment of the CPLSS component at each school.

16 (b) Providing ongoing technical assistance, leadership training,
17 and other capacity building supports.

18 (c) Rethinking the roles of pupil services personnel and other
19 support staff for pupils and integrating their responsibilities into
20 the educational program in a manner that meets the needs of
21 pupils, teachers, and other educators.

22 (d) Detailing procedures for establishing infrastructure
23 mechanisms between schools and school districts.

24 (e) Coordinating with other state, local, and community
25 agencies that can play a role in strengthening the CPLSS.

26 (f) Ensuring that the CPLSS is integrated within the
27 organization of participating schools, school districts, and the
28 department in a manner that reflects the individual schoolsite
29 plans developed by schools pursuant to subdivision (a) of Section
30 52059.3.

31 (g) Enhancing collaboration with state and local agencies and
32 other relevant resources to facilitate local collaboration and
33 braiding of resources.

34 (h) Including an assessment of the CPLSS in all future school
35 reviews and accountability reports.

36 52059.3. (a) Each elementary, middle, and high school
37 *involved in the pilot program* shall establish a school-community
38 council of stakeholders to develop a CPLSS component of its
39 individual schoolsite plan based on the assessed needs and
40 strengths of the school, pursuant to this section, including a

1 school action plan based on the guidelines developed by the
2 department pursuant to Section 52059.2.

3 (b) Each individual schoolsite plan shall be developed with the
4 purpose of doing all of the following:

5 (1) Enhance the capacity of teachers to address problems,
6 engage and reengage pupils in classroom learning, and foster
7 social, emotional, intellectual, and behavioral development. The
8 component of the individual schoolsite plan required by this
9 paragraph shall emphasize ensuring that teacher training and
10 assistance includes strategies for better addressing learning,
11 behavior, and emotional problems within the context of the
12 classroom. Interventions may include, but not be limited to, all of
13 the following:

14 (A) Addressing a greater range of pupil problems within the
15 classroom through an increased emphasis on strategies for
16 positive social and emotional development, problem prevention,
17 and accommodation of differences in the motivation and
18 capabilities of pupils.

19 (B) Classroom management that emphasizes reengagement of
20 pupils in classroom learning and minimizes over-reliance on
21 social control strategies.

22 (C) Collaboration with pupil support staff and the home in
23 providing additional assistance to foster enhanced responsibility,
24 problem solving, resilience, and effective engagement in
25 classroom learning.

26 (2) Enhance the capacity of schools to handle transition
27 concerns confronting pupils and their families. The component of
28 the individual schoolsite plan required by this paragraph shall
29 emphasize ensuring that systems and programs are established to
30 provide supports for the many transitions pupils, their families,
31 and school staff encounter. Interventions may include, but are not
32 limited to, all of the following:

33 (A) Welcoming and social support programs for newcomers.

34 (B) Before, during, and afterschool programs to enrich
35 learning and provide safe recreation.

36 (C) Articulation programs to support grade transitions.

37 (D) Addressing transition concerns related to vulnerable
38 populations, including, but not limited to, those in homeless
39 education, migrant education, and special education programs.

1 (E) Vocational and college counseling and school-to-career
2 programs.

3 (F) Support in moving to postschool living and work.

4 (G) Outreach programs to reengage truants and dropouts in
5 learning.

6 (3) Respond to, minimize the impact of, and prevent crisis.
7 The component of the individual schoolsite plan required by this
8 paragraph shall emphasize ensuring that systems and programs
9 are established for emergency, crisis, and followup responses and
10 for preventing crises at a school and throughout a complex of
11 schools. Interventions may include, but are not limited to, all of
12 the following:

13 (A) Establishment of a crisis team to ensure immediate
14 response when emergencies arise, and to provide aftermath
15 assistance as necessary and appropriate so that pupils are not
16 unduly delayed in reengaging in learning.

17 (B) Schoolwide and school-linked prevention programs to
18 enhance safety at school and to reduce violence, bullying,
19 harassment, abuse, and other threats to safety in order to ensure a
20 supportive and productive learning environment.

21 (C) Classroom curriculum approaches focused on preventing
22 crisis events, including, but not limited to, violence, suicide, and
23 physical or sexual abuse.

24 (4) Enhance home involvement. The component of the
25 individual schoolsite plan required by this paragraph shall
26 emphasize ensuring there are systems, programs, and contexts
27 established that lead to greater involvement to support the
28 progress of pupils with learning, behavior, and emotional
29 problems. Interventions may include, but are not limited to, all of
30 the following:

31 (A) Interventions that address specific needs of the caretakers
32 of a pupil, including, but not limited to, providing ways for them
33 to enhance literacy and job skills and meet their basic obligations
34 to the pupils in their care.

35 (B) Interventions for outreaching and reengaging homes that
36 have disengaged from school involvement.

37 (C) Improved systems for communication and connection
38 between home and school.

39 (D) Improved systems for home involvement in decisions and
40 problem solving affecting the pupil.

1 (E) Enhanced strategies for engaging the home in supporting
2 the basic learning and development of their children to prevent or
3 at least minimize learning, behavior, and emotional problems.

4 (5) Outreach to the community in order to build linkages. The
5 component of the individual schoolsite plan required by this
6 paragraph shall emphasize ensuring that there are systems and
7 programs established to provide outreach to and engage
8 strategically with public and private community resources to
9 support learning at school of pupils with learning, behavior, and
10 emotional problems. Interventions may include, but are not
11 limited to, all of the following:

12 (A) Training, screening, and maintaining volunteers and
13 mentors to assist school staff in enhancing pupil motivation and
14 capability for school learning.

15 (B) Job shadowing and service learning programs to enhance
16 the expectations of pupils for postgraduation opportunities.

17 (C) Enhancing limited school resources through linkages with
18 community resources, including, but not limited to, libraries,
19 recreational facilities, and postsecondary education institutions.

20 (D) Enhancing community and school connections to heighten
21 a sense of community.

22 (6) Provide special assistance for pupils and families as
23 necessary. The component of the individual schoolsite plan
24 required by this paragraph shall ensure that there are systems and
25 programs established to provide or connect with direct services
26 when necessary to address barriers to the learning of pupils at
27 school. Interventions may include, but are not limited to, all of
28 the following:

29 (A) Special assistance for teachers in addressing the problems
30 of specific individuals.

31 (B) Processing requests and referrals for special assistance,
32 including, but not limited to, counseling or special education.

33 (C) Ensuring effective case and resource management when
34 pupils are receiving direct services.

35 (D) Connecting with community service providers to fill gaps
36 in school services and enhance access for referrals.

37 (c) The development, implementation, monitoring, and
38 maintenance of the individual schoolsite plan shall include, but
39 not be limited to, all of the following components:

(1) Ensuring effective school mechanisms for assisting individuals and families with decisionmaking and timely, coordinated, and monitored referrals to school and community services when indicated. The mechanisms shall draw on the expertise of pupil support service personnel at schools such as nurses, psychologists, counselors, social workers, speech and language pathologists, resource specialists, special education teachers, and child welfare attendance workers.

(2) A mechanism for an administrative leader, support staff for pupils, and other stakeholders to work collaboratively at each school with a focus on strengthening the individual schoolsite plan.

(3) A plan for capacity building and regular support for all stakeholders involved in addressing barriers to learning and promoting healthy development.

(4) Training and technical assistance, and accountability reviews as necessary.

(5) Minimizing duplication and fragmentation between school programs.

(6) Preventing problems and providing a safety net of early intervention.

(7) Responding to pupil and staff problems in a timely manner.

(8) Connecting with a wide range of school and community stakeholder resources.

(9) Recognizing and responding to the changing needs of all pupils while promoting the success and well-being of each pupil and staff member.

(10) Creating a supportive, caring, respectful, and safe learning environment.

52059.4. CPLSS individual schoolsite plans shall do all of the following:

(a) Be an essential component of all school improvement planning.

(b) Be fully integrated with plans to improve instruction.

(c) Focus on maximizing use of available resources at the school, school complex, and school district levels.

(d) The CPLSS component of the individual schoolsite plan shall reflect all of the following:

1 (1) School policies, goals, guidelines, priorities, activities,
2 procedures, and outcomes relating to implementing the CPLSS.

3 (2) Effective leadership and staff roles and functions for the
4 CPLSS.

5 (3) A thorough infrastructure for the CPLSS.

6 (4) Appropriate resource allocation.

7 (5) Integrated school-community collaboration.

8 (6) Regular capacity-building activity.

9 (7) Delineated standards, quality and accountability indicators,
10 and data collection procedures.

11 52059.5. (a) For the purposes of this section, “complex of
12 schools” means a group of elementary, middle, or high schools
13 associated with each other due to the natural progression of
14 attendance linking the schools.

15 (b) To ensure that the CPLSS is developed cohesively,
16 efficiently uses community resources, and capitalizes on
17 economies of scale, CPLSS infrastructure mechanisms shall be
18 established at the school and district level.

19 (c) A complex of schools is encouraged to designate a pupil
20 support staff member to facilitate a family complex CPLSS team
21 consisting of representatives from each participating school.

22 (d) Each school district implementing a CPLSS shall establish
23 mechanisms designed to build the capacity of CPLSS
24 components at each participating school, including, but not
25 limited to, providing technical assistance and training for the
26 establishment of effective CPLSS components.

27 52059.6. (a) An independent agency selected by the
28 department shall evaluate the success of the CPLSS component
29 according to the following criteria:

30 (1) Improved systems for promoting prosocial pupil behavior
31 and the well-being of staff and pupils, preventing problems,
32 intervening early after problems arise, and providing specialized
33 assistance to pupils and families.

34 (2) Increasingly supportive, caring, respectful, and safe
35 learning environments at schools.

36 (3) Enhanced collaboration between the school and
37 community.

38 (4) The integration of the CPLSS component with all other
39 school improvement plans.

1 (5) Fewer inappropriate referrals of pupils to special education
2 programs or other special services.

3 (b) The evaluation shall consider all of the following items in
4 determining the impact of the CPLSS, and the findings related to
5 each item shall be included in the School Accountability Report
6 Card, pursuant to Section 33126:

7 (1) Pupil attendance.

8 (2) Pupil grades.

9 (3) Academic performance.

10 (4) Pupil behavior.

11 (5) Home involvement.

12 (6) Teacher retention.

13 (7) Graduation rates for high school pupils.

14 (8) Grade promotion for elementary, middle, and junior high
15 schools.

16 (9) Truancy rates.

17 (10) Literacy development.

18 (11) Other indicators required by the federal No Child Left
19 Behind Act of 2001 (20 U.S.C. Sec. 6301 et. seq.) and included
20 in the California Healthy Kids Survey.

21 (c) The evaluation shall compare the CPLSS components of
22 schools that have similar records of pupil achievement at 3, 5,
23 and 10 years after implementation of the CPLSS components.

24 52059.7. (a) The State Department of Education shall
25 develop a request for a grant application, to be submitted by
26 school districts pursuant to this chapter. The State Department of
27 Education shall award funding pursuant to this ~~act~~ *chapter* to five
28 school districts based on the following criteria:

29 (1) The score of the school district on the grant application, as
30 determined by the State Department of Education.

31 (2) Current receipt by the school district of funding pursuant to
32 Title I of the federal No Child Left Behind Act of 2001 (20
33 U.S.C. Sec. 6301 et seq.).

34 (3) The geographic and population characteristics of the
35 school district.

36 (b) State funds that are appropriated for purposes of this
37 chapter shall be allocated as follows:

38 (1) Four hundred thousand dollars (\$400,000) shall be
39 apportioned to each school district that is selected by the State
40 Department of Education pursuant to subdivision (a) per calendar

1 year for three years. Each of these school districts shall identify a
2 feeder pattern of one elementary school, one middle or junior
3 high school, and one high school to receive funding.

4 (2) One million dollars (\$1,000,000) shall be apportioned to
5 the State Department of Education per year for three years for all
6 of the following purposes:

7 (A) To hire one education programs consultant and one
8 analyst.

9 (B) To contract for training and technical assistance services.

10 (C) To contract for formative and summative evaluations.

11 SEC. 3. Chapter 3 (commencing with Section 5884.10) is
12 added to Part 4 of Division 5 of the Welfare and Institutions
13 Code, to read:

14
15 CHAPTER 3. PUPIL MENTAL ILLNESS PREVENTION AND EARLY
16 INTERVENTION PROGRAM
17

18 5884.10. In keeping with the intent of the Mental Health
19 Services Act (Proposition 63, approved by the voters November
20 2, 2004), the Legislature recognizes the link between early
21 identification of children with unmet mental health needs and
22 their success in school. Therefore, a component of the program
23 established by the State Department of Mental Health pursuant to
24 subdivisions (a) and (d) of Section 5840 shall be designed to
25 prevent pupil mental illness from becoming severe and disabling.
26 This pupil mental health component of the program shall
27 emphasize strategies to provide early identification of pupils with
28 unmet mental health needs and to provide needed services so as
29 to address those unmet mental health needs, thus reducing related
30 negative outcomes for pupils, including, but not limited to,
31 school failure or dropout.

32 5884.15. (a) The State Department of Mental Health shall
33 enter into an interagency agreement with the State Department of
34 Education to establish a three-year pilot program to develop a
35 catchment structure designed to identify children who have
36 unmet mental health needs and related unmet learning support
37 needs with the goal of providing the necessary mental health, and
38 related learning support services so as to increase pupil success
39 rates.

1 (b) Of the funds appropriated to the State Department of
2 Mental Health pursuant to Section 5890, the sum of three million
3 dollars (\$3,000,000) shall be allocated in each of the fiscal years
4 2007–08, 2008–09, and 2009–10 for the purpose of funding the
5 interagency agreement with the State Department of Education
6 pursuant to this chapter.

7 5884.20. (a) All data obtained from the pilot project shall be
8 provided by the State Department of Education to the State
9 Department of Mental Health for review and possible
10 incorporation into county mental health plans. The information
11 shall be confidential and shall not contain any pupil identifiers.

12 (b) The State Department of Mental Health, in consultation
13 with the State Department of Education, shall report to the
14 Legislature by August 1, 2009, regarding the progress of the pilot
15 program, including any recommendations.

16 SEC. 4. If the Commission on State Mandates determines that
17 this act contains costs mandated by the state, reimbursement to
18 local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2257

VERSION: AMENDED MARCH 27, 2006

AUTHOR: B&P COMMITTEE

SPONSOR: CALIFORNIA PSYCHOLOGICAL ASSN

RECOMMENDED POSITION: NONE

SUBJECT: PSYCHOLOGISTS: RECORDS RETENTION

Existing Law:

- 1) Requires any entity that compiles or maintains medical information to provide the patient at no charge, upon the patient's request, with a copy of his or her medical profile, summary, or other information maintained by the entity. (Civil Code § 56.07(a))
- 2) Requires providers of health care who create, maintain, store, abandon, destroy, or dispose of medical records to do so in a manner that preserves the confidentiality of the record. (Civil Code § 56.101)
- 3) Defines "patient records" as records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. (HSC § 123105(d))
- 4) Permits any adult patient of a health care provider, any minor patient authorized to consent to treatment, and any patient representative to inspect the patient's record upon written request and payment of reasonable clerical costs. Requires a health care provider to permit this inspection within five working days. (HSC § 123110(a))
- 5) Permits a health care provider to prepare a summary of a patient's record for inspection and copying by a patient rather than the entire record. The provider must present the summary to the patient within 10 working days of the patient's request, or within 30 days if more time is needed under extenuating circumstances. (HSC § 123130(a))
- 6) Requires licensed health facilities, clinics, home health agencies, and adult day health care centers, which have ceased operation, to preserve records for a minimum of seven years following discharge of the patient, except that the records of unemancipated minors must be kept at least one year after the minor has reached the age of 18 years, and not less than seven years total. (HSC § 123145(a))
- 7) Requires a health care provider who transmits any health information in electronic form (aka a "covered entity") to retain health care records for six years. (45 CFR Part 164 (j))
- 8) Defines "the failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered," as unprofessional conduct for MFTs, LEPs, and LCSWs. (B&P § § 4982(v), 4986.70(i), 4992.3(s)).

This Bill:

- 1) Requires a licensed psychologist to retain patient records for a minimum of seven (7) years from the patient's discharge date.

Comment:

- 1) **Author's Intent.** According to the sponsor, this bill is proactive and not in response to a particular problem. However, the sponsor often receives calls from psychologists in private practice asking for guidelines regarding record retention. A record retention schedule exists for other types of therapists, and such guidelines were used when determining the appropriate number of years to retain records.
- 2) **BBS.** This bill does not currently include BBS licensees. However, in 1999, the BBS proposed language that specified the type of information required to be included in client records. The BBS then held a recordkeeping workshop where the proposed language was considered. Some stakeholders, including the California Association of Marriage and Family Therapists (CAMFT) and the National Association of Social Workers (NASW), expressed opposition to language that would have specified certain requirements, and preferred more general language, resulting in "Existing Law" number 8 in this analysis. Additionally, most BBS licensees are considered a "covered entity" under HIPAA and are therefore required to maintain records for six years.
- 3) **Professional Associations.** CAMFT recommends a 7-year retention period for Marriage and Family Therapists. NASW's Code of Ethics section 3.04(d) states, "Social workers should store records following the termination of services to ensure reasonable future access. Records should be maintained for the number of years required by state statutes or relevant contracts." The National Association of School Psychologists has not published any recommendations pertaining to a time frame for records retention.
- 4) **Support and Opposition.**
None known at this time.
- 5) **History**
2006
Mar. 28 Re-referred to Com. on B. & P.
Mar. 27 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
Mar. 2 Referred to Com. on B. & P.
Feb. 23 From printer. May be heard in committee March 25.
Feb. 22 Read first time. To print.

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2257

Introduced by Committee on Business and Professions (Negrete McLeod (Chair), Shirley Horton (Vice Chair), Bass, Frommer, Koretz, Maze, Nation, Tran, Vargas, and Yee)

February 22, 2006

An act to add Section 2919 to the Business and Professions Code, relating to psychologists.

LEGISLATIVE COUNSEL'S DIGEST

AB 2257, as amended, Committee on Business and Professions. Psychologists: records retention.

Existing law, the Psychology Licensing Law, provides for the licensure and regulation of the practice of psychology. A violation of that law is a crime.

This bill would require a licensed psychologist to retain a patient's *health service* records for a minimum of 7 years from the patient's discharge date, *and would also require a minor patient's health service records to be retained for a minimum of 7 years from the date the patient reaches 18 years of age*. Because a violation of the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2919 is added to the Business and
2 Professions Code, to read:
3 2919. A licensed psychologist shall retain a patient's *health*
4 *service* records for a minimum of seven years from the patient's
5 discharge date. *If the patient is a minor, the patient's health*
6 *service records shall be retained for a minimum of seven years*
7 *from the date the patient reaches 18 years of age.*
8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the
13 penalty for a crime or infraction, within the meaning of Section
14 17556 of the Government Code, or changes the definition of a
15 crime within the meaning of Section 6 of Article XIII B of the
16 California Constitution.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2283 **VERSION:** INTRODUCED FEBRUARY 22, 2006

AUTHOR: OROPEZA **SPONSOR:** LATINO COALITION FOR A HEALTHY CALIFORNIA

RECOMMENDED POSITION: NONE

SUBJECT: PHYSICIANS AND SURGEONS: ETHNICITY AND LANGUAGE PROFICIENCY

Existing Law:

- 1) Prohibits including any question on any application or form required by a state agency pertaining to the applicant's race, sex, marital status or religion. (GC § 8310)
- 2) Prohibits a licensing board from printing or circulating any publication, or to make any non-job-related inquiry that expresses any limitation, specification, or discrimination as to race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, sex, age, or sexual orientation unless that board is acting in accordance with federal equal employment opportunity guidelines or regulations. (GC § 12944 (c))
- 3) Permits a licensed physician to report, at license renewal, information regarding his or her cultural background and foreign language proficiency. Requires the Medical Board of California (MBC) to collect such reported information, and permits this information to be placed on the MBC's web site. (B&P § 2425.3 (c),(d))

This Bill:

- 1) Requires physician ethnic background and language proficiency data collected by the MBC to be aggregated annually by both statewide totals and zip code of primary practice location.
- 2) Requires the aggregated information to be compiled annually and reported on the MBC's web site by July 1 each year.

Comment:

- 1) **Author's Intent.** According to the author, a law was enacted in 2002 which asked physicians to provide ethnicity and language proficiency information upon renewal. This data now exists, but nothing has been done with it. If a person is trying to find a doctor who speaks another language, they can submit a request to the MBC, but it takes a long time to obtain a response. This bill would lead to an accessible Internet database for patients and data for researchers.

According to the sponsor, it has been difficult to determine the number of Spanish-speaking Californians as well as the number of Spanish-speaking physicians. They would like to be able to measure trends over time, a component that is currently not available. They would also like to aggregate data based on zip code. The sponsor sees the next 10 years as a crucial time in which to formulate public policy due to the rapidly increasing number of

Latinos in California. Latinos are prone to Type 2 Diabetes and obesity, so prevention efforts are critical. There are disparities in treatments and outcomes, and many feel more comfortable if the doctor speaks their language.

- 2) **AB 1586.** This bill, signed into law in 2001, requires licensed physicians to report any specialty board certification and practice status information to the MBC at license renewal. It also permits a physician to report his or her cultural background and foreign language proficiency at renewal. The MBC is required to collect this information, and is permitted to place it on their web site. This bill was required to be implemented by July 1, 2003. The MBC estimated \$50,000 in one-time costs and \$75,000 in ongoing costs for implementation of this bill. The MBC's interpretation of the bill has led them to additionally ask whether the physician wants such information to be made public.
- 3) **MBC.** The MBC has not yet placed physician cultural background, foreign language proficiency, specialty board certification or practice status information on their web site. The only way for the public to access this information is to request it in writing. However, the MBC has added fields for this information to the Consumer Affairs System (CAS). Specified CAS fields are linked to the Internet for license verifications. The MBC has not yet provided a fiscal estimate for implementation of this bill.
- 4) **BBS.** The Board does not currently collect racial or ethnic data of its licensees, registrants, or applicants, but an anonymous survey is being developed to collect this information.

5) **Support and Opposition.**

Support: None at this time

Expected Opposition: Medical Board of California

6) **History**

2006

Apr. 4	Hearing Date (Asm. B&P)
Mar. 2	Referred to Com. on B. & P.
Feb. 23	From printer. May be heard in committee March 25.
Feb. 22	Read first time. To print.

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2283

Introduced by Assembly Member Oropeza

February 22, 2006

An act to amend Section 2425.3 of the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 2283, as amended, Oropeza. ~~Physician~~—*Physicians* and surgeons: cultural background and foreign language proficiency.

The Medical Practice Act provides for the licensure by the Medical Board of California of physicians and surgeons as well as other healing arts practitioners. The act requires each licensed physician to complete a questionnaire sent to him or her at the time of license renewal that seeks specified information. Existing law authorizes a physician to report to the board, and requires the board to collect, information regarding his or her cultural background and foreign language proficiency. Existing law permits this information to be placed on the board's Internet Web site.

This bill would require the information regarding cultural background and foreign language proficiency to be aggregated on an annual basis based on categories utilized by the board in the collection of the data, and to be aggregated by both statewide totals and ZIP Code of primary practice location. The bill would also require this information to be compiled and reported on the board's Internet Web site on or before ~~July~~ *October* 1 of each year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) It is the intent of the Legislature to
2 determine the number of physicians with cultural and linguistic
3 competency who are practicing medicine in California.

4 (b) Data on physicians serving any given area allows for the
5 consistent determination of which areas of California are
6 underserved by physicians with cultural or linguistic
7 competency.

8 SEC. 2. Section 2425.3 of the Business and Professions Code
9 is amended to read:

10 2425.3. (a) The Medical Board of California shall request
11 that a licensed physician report to the board at the time of license
12 renewal any specialty board certification he or she holds issued
13 by a member board of the American Board of Medical
14 Specialties or approved by the Medical Board of California.

15 (b) A licensed physician shall also report to the board at the
16 time of license renewal, his or her practice status, designated as
17 one of the following:

- 18 (1) Full-time practice in California.
- 19 (2) Full-time practice outside of California.
- 20 (3) Part-time practice in California.
- 21 (4) Medical administrative employment that does not include
22 direct patient care.
- 23 (5) Retired.
- 24 (6) Other practice status, as may be further defined by the
25 Division of Licensing.

26 (c) (1) A licensed physician may report to the board at the
27 time of license renewal, and the board shall collect, information
28 regarding his or her cultural background and foreign language
29 proficiency.

30 (2) Information collected pursuant to this subdivision shall be
31 aggregated on an annual basis based on categories utilized by the
32 board in the collection of the data, and shall be aggregated by
33 both statewide totals and ZIP Code of primary practice location.

34 (3) Aggregated information under this subdivision shall be
35 compiled annually and reported on the board's Internet Web site
36 on or before ~~July~~ *October* 1 of each year.

- 1 (d) The information collected pursuant to subdivisions (a) and
- 2 (b) of this section may also be placed on the board's Internet
- 3 Web site.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2328 **VERSION:** INTRODUCED FEBRUARY 22, 2006

AUTHOR: HAYNES **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: AGENCY FISCAL REPORTS

Existing Law:

- 1) Requires every State agency for which an appropriation has been made, to submit to the Department of Finance for approval, a complete and detailed budget, setting forth all proposed expenditures and estimated revenues for the ensuing fiscal year. (GC § 13320)
- 2) Requires the Governor to submit to the Legislature, within the first 10 days of each calendar year, a budget for the ensuing fiscal year containing itemized statements of recommended state expenditures and estimated state revenues. (CA Constitution, Article 4, § 12(a))

This Bill:

- 1) Requires each state agency, board, commission, department, or office, (hereinafter "entity") to provide a report to the Senate and Assembly Committees on Rules, and to each member of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget regarding the financial activities of the entity for the current and past five fiscal years, and for each fiscal year thereafter. (GC § 11091.5(a))
- 2) Requires the report to: (GC § 11091.5(a))
 - Identify the entity's organizational code from the most current Budget Act.
 - Identify the total amount of the entity's appropriations in the current and each of past five fiscal years
 - Identify the total amount of any midyear adjustments, in the current and each of past five fiscal years
 - Identify the percent increase of appropriation for the preceding fiscal year.
 - Compare the entity's total expenditures against the source of funds used to make the expenditures, identifying the category of the expenditure, and the percentage increases over the amounts of expenditures for each preceding fiscal year.
 - Compare the total amounts of expenditures against the total amount budgeted by the entity for expenditure.
 - Describe the program goals established by each entity for each fiscal year, as well as the reported progress toward those goals and overall annual program growth.
 - Identify the cost per person or recipient of program benefits and the increase in this cost over the prior year.
- 3) Requires any subdivision of an entity to provide the required data to the entity of which it is a part. The entity shall prepare and provide a separate report for each subdivision, and a report with the combined totals for all of its subdivisions. (GC § 11091.5(a))

- 4) Requires all information to be provided no later than January 15, 2007. All information required by this section for each subsequent fiscal year shall be provided no later than January 15 of the calendar year following that fiscal year. (GC § 11091.5(b))

Comment:

- 1) **Author's Intent.** According to the author, there is a lack of information provided to the Legislature regarding the details of how each tax dollar is spent per agency, board, commission, etc. This bill moves toward "zero based" budgeting, where a program's existence and its expenditures are justified each fiscal year, as opposed to making budget decisions based on the prior year's budget.
- 2) **Budget Process.** The state has used zero-based budgeting in the past. It currently uses an incremental budgeting process. According to the Department of Finance, "This [incremental budgeting] approach essentially uses the current departmental level of funding as a base amount to be adjusted by change proposals. The Budget Change Proposal (BCP) has been the traditional decision document which proposes a change to the existing budget level."

The Board is currently required to justify its existence and its budget every few years through the Sunset Review process. Because zero-based budgeting is a very work-intensive method which requires analyzing all Board activities and budgeted amounts from the ground up every year, it would require the addition of one or two budget staff to complete the associated workload increase. It would also consume a great deal of management staff time. The timeline for report submission in the bill is unrealistic. Should the bill pass, it would become effective January 1, 2007. It requires submission of the current and past five years worth of financial information by January 15, 2007.

- 3) **BBS.** Much of the information proposed by this bill is currently available in the annual Budget Act, and therefore would be duplicative. Mid-year adjustments and percent increases are not available in the Budget Act, but can be identified easily by comparing the prior budget with the current budget.

Reporting on the "cost per person or recipient of program benefits" could be difficult for the BBS when the Board's mission is to protect the well being of Californians (the general public) by setting standards for mental health professionals. Would it be based on the number of recipients of enforcement actions, the number of licensed mental health professionals, or the total population of the state that benefits from the regulation of mental health professionals?

- 4) **Prior Legislation.** This bill is nearly identical to AB 94 (Haynes) in 2005 which failed passage in the Assembly Business and Professions Committee. It is similar to AB 318 (Haynes) in 2003, which was held in the Assembly Budget Committee and SB 1292 (Haynes) in 2002, which was held in Senate Appropriations Committee.

5) Suggested Amendments.

- The information required by paragraphs (4) and (5) of subdivision (a) is difficult to understand. For example, the following is unclear: "...identify the total amounts of expenditures...against the source of funds used..." Does the author wish for information to be simply identified, or compared? The following may help to clarify the information being requested:

(a)(4) The report required by this section shall ~~identify~~ compare the total amounts of expenditures by the agency, board, commission, department, or office against the

source of funds used to make the expenditure, identifying the category of the expenditure, and the percentage increases of these amounts over the amounts of expenditures for the preceding year.

(a)(5) The report required by this section shall ~~identify~~ compare the total amounts of actual expenditures by the agency, board, commission, department, or office against the total amount budgeted by the agency, board, commission, department, or office for expenditure.

- The following section does not provide enough guidance to state agencies to enable determining who the “person” (cost per person) is, and who the “recipient of program benefits” is. For example, is this the total population of California, only the members of the public who have filed a complaint with the Board, or is it the Board’s licensees? Although the Board’s mission is to protect the public, the public does not pay any costs directly to the Board. Therefore, the following amendment would be reasonable and would provide enough information:

(a)(7) The report required by this section shall identify the ~~cost per person or recipient of program benefits~~ portion of enforcement budget paid per licensee and the increase in this cost over the prior year.

- The initial report submission deadline in this bill is not feasible. The following amendment is suggested:

(b) All information required by this section for the 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, and 2005-06 fiscal years shall be provided no later than ~~January 15, 2007~~ June 30, 2007. All information required by this section for each subsequent fiscal year shall be provided no later than January 15 of the calendar year following that fiscal year.

6) Support and Opposition.

None known at this time.

7) History

2006

Mar. 14	Referred to Com. on B. & P.
Feb. 23	From printer. May be heard in committee March 25.
Feb. 22	Read first time. To print.

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ASSEMBLY BILL

No. 2328

Introduced by Assembly Member Haynes

February 22, 2006

An act to add Section 11091.5 to the Government Code, relating to state agency finances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2328, as introduced, Haynes. Agency fiscal reports.

The annual Budget Act makes appropriations for the support of state government.

This bill would require each state agency, board, commission, department, or office to prepare and provide a report to the Senate Committee on Rules, the Assembly Committee on Rules, and to each member of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget on the financial activities of the agency, board, commission, department, or office for the 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, and 2005–06 fiscal years no later than January 15, 2007, and for each subsequent fiscal year by January 15 of the following year in accordance with specified requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11091.5 is added to the Government
- 2 Code, to read:
- 3 11091.5. (a) Notwithstanding Section 7550.5, each state
- 4 agency, board, commission, department, or office, shall prepare

1 and provide a report to the Senate Committee on Rules, the
2 Assembly Committee on Rules, and to each member of the
3 Senate Committee on Budget and Fiscal Review and the
4 Assembly Committee on Budget on the financial activities of the
5 agency, board, commission, department, or office for the
6 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, and 2005–06
7 fiscal years, and for each fiscal year thereafter, in accordance
8 with the following requirements:

9 (1) The report shall identify the organizational code of the
10 reporting agency, board, commission, department, or office as
11 provided in the most current Budget Act.

12 (2) If an agency, board, commission, department, or office
13 includes more than one subdivision, including divisions, offices,
14 units, or other subdivisions, the subdivision shall provide the data
15 required by this section to the agency, board, commission,
16 department, or office of which it is a part. The agency, board,
17 commission, department, or office shall then prepare and provide
18 a separate report for each subdivision, and a report with the
19 combined totals for all of its subdivisions.

20 (3) The report required by this section shall identify the total
21 amount of all appropriations, including any midyear adjustments
22 made to the annual Budget Act, appropriated to the agency,
23 board, commission, department, or office within each of the
24 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, and 2005–06
25 fiscal years, as well as the percentage increases of these total
26 amounts over the base amount in the annual Budget Act for the
27 preceding fiscal year beginning in the 2000–01 fiscal year.

28 (4) The report required by this section shall identify the total
29 amounts of expenditures by the agency, board, commission,
30 department, or office against the source of funds used to make
31 the expenditure, the category of the expenditure, and the
32 percentage increases of these amounts over the amounts of
33 expenditures for the preceding year.

34 (5) The report required by this section shall identify the total
35 amounts of actual expenditures by the agency, board,
36 commission, department, or office against the total amount
37 budgeted by the agency, board, commission, department, or
38 office for expenditure.

39 (6) The report required by this section shall describe the actual
40 program goals established by each agency, board, commission,

1 department, or office for each fiscal year, as well as the reported
2 progress toward those goals and overall annual program growth.

3 (7) The report required by this section shall identify the cost
4 per person or recipient of program benefits and the increase in
5 this cost over the prior year.

6 (b) All information required by this section for the 2000–01,
7 2001–02, 2002–03, 2003–04, 2004–05, and 2005–06 fiscal years
8 shall be provided no later than January 15, 2007. All information
9 required by this section for each subsequent fiscal year shall be
10 provided no later than January 15 of the calendar year following
11 that fiscal year.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2357 **VERSION:** INTRODUCED FEBRUARY 23, 2006

AUTHOR: KARNETTE AND YEE **SPONSOR:** CALIFORNIA PSYCHIATRIC ASSN

RECOMMENDED POSITION: NONE

SUBJECT: OUTPATIENT MENTAL HEALTH TREATMENT

Existing Law:

- 1) Establishes Welfare and Institutions Code (WIC) Sections 5345 through 5349.1 as "Laura's Law." (WIC § 5345 (a))
- 2) Repeals "Laura's Law" effective January 1, 2008. (WIC § 5349.5)
- 3) Defines "assisted outpatient treatment" as community-based, mobile, multidisciplinary, highly trained mental health teams that use high staff-to-client ratios, provided by a county and which have been court-ordered. (WIC § § 5345(b), 5348(a))
- 4) Prohibits counties from implementing assisted outpatient treatment if its implementation would reduce any voluntary adult mental health program or children's mental health program. (WIC § 5349)
- 5) Requires counties that implement this program to develop a training program for those involved in making treatment and involuntary commitment decisions in order to improve the delivery of services to those who are, or who are at risk of being, involuntarily committed. (WIC § 5349.1)
- 6) Permits a court, in a county where such services are available, to order a person age 18 years or older to obtain assisted outpatient treatment for a maximum of six months if the court finds all of the following: (WIC § 5346(a))
 - The person is suffering from a mental illness.
 - There has been a clinical determination that the person is unlikely to survive safely in the community without supervision.
 - The person has a history of lack of compliance with treatment.
 - The person has been offered an opportunity to participate in treatment and the person continues to fail to engage in treatment.
 - The person's condition is substantially deteriorating.
 - Participation in the program would be the least restrictive placement necessary to ensure recovery and stability.
 - The person is in need of assisted outpatient treatment in order to prevent a relapse or deterioration that would likely result in grave disability or serious harm to self or others.
 - The person would likely benefit from assisted outpatient treatment.
- 7) A request for court-ordered assisted outpatient treatment may be made by any of the following persons: (WIC § 5346(b))

- The county mental health director
 - Any person 18 years of age or older who lives with the person who is the subject of the petition.
 - The subject's parent, spouse, or sibling or adult child.
 - The director of any agency, treatment facility, charitable organization, or licensed residential care facility in whose institution the subject resides.
 - The director of a hospital in which the subject is hospitalized.
 - A licensed mental health treatment provider who is either supervising the treatment of, or treating the subject for a mental illness.
 - A peace officer, parole officer, or probation officer assigned to supervise the subject.
- 8) Provides a number of rights to the subject, including the right to counsel, notice of the hearings, a copy of the mental health evaluation, to be present at the hearing, to present evidence, to call and cross-examine witnesses, and to appeal decisions. A person may choose to voluntarily enter into an agreement for services by waiving the right to hearing in order to obtain treatment under a settlement agreement. (WIC § 5346 (d))
- 9) Permits a person to voluntarily enter into an agreement for services by waiving the right to hearing in order to obtain treatment under a settlement agreement. (WIC § 5347)

This Bill:

- 1) Deletes the sunset of "Laura's Law" and extends the statute indefinitely. (WIC § 5349.5)

Comment:

- 1) **Author's Intent.** According to the sponsor, this bill would prevent the sunset of a law that permits counties to use court-ordered assisted outpatient treatment. This type of treatment is appropriate for mentally ill repeat offenders, violent offenders, and those who have been repeatedly hospitalized. Such intensive and structured services are the most effective for those who are seriously mentally ill, and helps people comply with treatment.

The sponsor explained that when a county elects to use this program, it must come up with a funding source that will not detract from other mental health programs. They believe it is important to address the sunset because some counties now want to implement the program due to funds available through the Mental Health Services Act (MHSA). The sponsor is aware of at least one county, (Los Angeles) that currently administers such a program, and two (Sacramento and Nevada) that are working toward implementation. The sponsor wants to remove any barriers that might prevent implementation or continuity of such services.

- 2) **About Laura's Law.** AB 1421, otherwise known as Laura's Law, was signed in 2002. It provides a structured option to counties for treatment of seriously mentally ill persons. This law was named for Laura Wilcox who was killed at a public mental health clinic by a mentally ill man. It is based on New York's "Kendra's Law," where studies have shown effectiveness in treatment, a large decrease in homelessness, and large decreases in arrest, incarceration and repeat psychiatric hospitalization for service recipients.

Under California law, it is difficult to require a mentally ill person to undergo outpatient treatment. A person must present a serious danger to self or others, and often the only option is arrest or hospitalization. As of 2004, only Los Angeles County has implemented this law, in a limited manner. It has been difficult for counties to implement due to funding

issues, as they cannot use funds already set aside for outpatient treatment of the mentally ill.

AB 1421 was supported by groups such as the California Treatment Advocacy Coalition, Police Chief's Association, and the National Alliance on Mental Illness. AB 1421 was viewed by supporters in a humanitarian light, believing that some mentally ill people are too sick to recognize their own symptoms or accept treatment. The bill was opposed by the California Network of Mental Health Clients, MindFreedom International, and the Church of Scientology. Opponents generally felt that the legislation was regressive and an extreme method of enforcing drug treatment regimens.

- 3) MHSA (Proposition 63).** Proposition 63 did not make any restrictions regarding involuntary services. However, the Department of Mental Health (DMH) states that they received "considerable feedback from Stakeholders regarding MHSA and involuntary services." They believe there was a "consensus that DMH should retain the goal of reducing involuntary services." The DMH has therefore taken the following positions regarding MHSA funding:
- "Programs funded under the [MHSA] must be voluntary in nature.
 - Individuals accessing services funded by the MHSA may have voluntary or involuntary legal status which shall not affect their ability to access the expanded services under this Act.
 - Services provided in jails and juvenile hall must be for the purpose of facilitating discharge."

4) Support and Opposition.

Support:

California Psychiatric Association (sponsor)
California Treatment Advocacy Coalition (co-sponsor)
California Medical Association
NAMI California
6 individuals

Opposition:

Alameda County Network of Mental Health Clients
California Association of Social Rehabilitation Agencies
California Network of Mental Health Clients
California Psychological Association
Protection and Advocacy, Inc

5) History

2006

Apr. 6	From committee: Amend, do pass as amended, and re-refer to Com. on JUD. (Ayes 13. Noes 1.) (April 4).
Mar. 13	Referred to Coms. on HEALTH and JUD.
Feb. 24	From printer. May be heard in committee March 26.
Feb. 23	Read first time. To print.

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ASSEMBLY BILL

No. 2357

**Introduced by Assembly Members Karnette and Yee
(Coauthors: Assembly Members Canciamilla and Wolk)**

February 23, 2006

An act to amend the heading of Article 9 (commencing with Section 5345) of Chapter 2 of Part 1 of Division 5 of, and to repeal Section 5349.5 of, the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2357, as introduced, Karnette. Assisted outpatient mental health treatment.

Existing law, Laura's Law, establishes a demonstration project in which a county may elect to participate in an assisted outpatient mental health treatment program. Under Laura's Law a court may order an adult to obtain assisted outpatient treatment if prescribed criteria are met, including, but not limited to, that the person suffers from mental illness, that there has been a clinical determination that the person is unlikely to survive safely in the community without supervision, and that the person has a history of not complying with treatment. Existing law repeals these provisions on January 1, 2008.

This bill would delete the repeal date, and would thereby extend the program indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Article 9 (commencing with
2 Section 5345) of Chapter 2 of Part 1 of Division 5 of the Welfare
3 and Institutions Code is amended to read:

4
5 Article 9. The Assisted Outpatient Treatment ~~Demonstration~~
6 Project Act Program of 2002

7
8 SEC. 2. Section 5349.5 of the Welfare and Institutions Code
9 is repealed.

10 ~~5349.5. This article shall remain in effect only until January~~
11 ~~1, 2008, and as of that date is repealed, unless a later enacted~~
12 ~~statute that is enacted on or before January 1, 2008, deletes or~~
13 ~~extends that date.~~

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2404 **VERSION:** INTRODUCED FEBRUARY 23, 2006

AUTHOR: KLEHS **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: STATE REPORTS: DECLARATIONS

Existing Law:

- 1) Defines "written report" as a document required by statute to be prepared and submitted to the Legislature, the Governor, or any state legislative or executive body. (GC 7550.5(a)(2))
- 2) Requires a public agency to prepare or submit a written report to the Legislature, the Governor, or any state legislative or executive body only when: (GC 7550.5(b))
 - The report is required by a court order, federal law, or federal regulation.
 - The report is required by state law.
 - The report is required by or for the annual Budget Act or in any supplemental budget report prepared by the Legislative Analyst.
 - The Legislature expressly requires a written report to be prepared and submitted.

This Bill:

- 1) Requires a state agency, board or commission that is required to submit a written report to the Legislature to have one of the following persons sign the report, declaring that the contents of the report are true, accurate, and complete to the best of his or her knowledge: (GC § 7550.7(a))
 - The agency head
 - The board or commission chair
 - The executive officer or executive director when a board or commission has an executive officer or executive director
- 2) Exempts elected officials or officials whose duties are prescribed by the California Constitution. (GC § 7550.7(b))
- 3) Requires certain specified local agency reports required to be submitted to the Controller to include a signed statement by the officer of the local agency, declaring under penalty of perjury that the contents of the report are true, accurate, and complete to the best of his or her knowledge. (GC § 7550.7(c))
- 4) Establishes the penalty for reporting material as true that the signer knows to be false as a misdemeanor, punishable by a fine of up to five thousand dollars (\$5,000), imprisonment in county jail for up to six months, or by both fine and imprisonment. (GC § 7550.7(d))

Comment:

- 1) **Author's Intent.** The author states that the purpose of the bill is to ensure that the Legislature and other agencies receive accurate and trustworthy information, so that they can be effective in making decisions. In response to financial scandals of the past few years, Congress passed the Sarbanes-Oxley Act of 2002. This federal law requires CEOs to sign reports to company shareholders under penalty of perjury. Similarly, this bill is in response to a series of hearings in which CalTrans was found to have provided inaccurate information to the State Legislature and withheld information concerning the retrofit of the eastern span of the Bay Bridge. During the Joint Legislative Audit Committee hearing to review the audit on the Bay Bridge project, it was found that CalTrans and other agency heads had withheld information from the Legislature or misrepresented certain facts, such as cost overruns and evidence of project mismanagement. The author believes this bill would ensure that agency officials are held accountable when giving testimony to the State Legislature.
- 2) **BBS Impact.** This bill would require the Board of Behavioral Sciences' (BBS) Executive Officer to sign all written reports to the Legislature, declaring that the contents of the report are true, accurate, and complete to the best of his knowledge. This bill also establishes the penalty for reporting material as true that the signer knows to be false as a misdemeanor, punishable by a fine of up to five thousand dollars (\$5,000), imprisonment in county jail for up to six months, or by both fine and imprisonment.
- 3) **Prior Legislation.** AB 1625, introduced by Klehs last year, was very similar legislation, which the governor vetoed. The veto message was as follows:

"I absolutely believe that the Legislature, indeed all elected officials, must base their decisions on information that is true, accurate, and complete. This bill, requiring legislative reports be submitted under penalty of perjury, only applies to individuals appointed by the Governor and confirmed by the Senate, and to the executive officer of the Franchise Tax Board and the executive director of the Board of Equalization.

The law already protects against falsified reports to the Legislature. Department heads must take oaths of office, and various Government and Penal Code provisions set forth duties, obligations, and penalties for the accurate and truthful execution of the operation of state government. Further, the Legislature may already require individuals appearing before it to testify under oath, and false testimony is a felony.

I will consider similar legislation that applies to all written materials used in the course of legislative deliberations that applies to any official of the State, elected or appointed by the Governor, the Legislature or any other constitutional officer."

4) Support and Opposition.

None known at this time.

5) History

2006

Apr. 5	From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 7. Noes 1.) (April 4).
Mar. 14	Referred to Com. on B. & P.
Feb. 24	From printer. May be heard in committee March 26.
Feb. 23	Read first time. To print.

ASSEMBLY BILL

No. 2404

Introduced by Assembly Member Klehs

February 23, 2006

An act to add Section 7550.7 to the Government Code, relating to state reports.

LEGISLATIVE COUNSEL'S DIGEST

AB 2404, as introduced, Klehs. State government: reports: declarations.

(1) Existing law generally sets out the requirements for the submission of written reports by public agencies to the Legislature, the Governor, the Controller, and state legislative and other executive entities.

This bill would additionally require any of these written reports required to be submitted by any state agency, board, or commission and specified reports required to be submitted to the Controller by any city, county, city and county, or transit district, to include a signed statement by the head of the agency, the chair of the board or commission, or the officer of the local agency, except as specified, declaring under penalty of perjury, that the contents of the report are true, accurate, and complete to the best of his or her knowledge. By expanding the scope of the existing crime of perjury, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7550.7 is added to the Government
2 Code, to read:

3 7550.7. (a) (1) Notwithstanding any other provision of law,
4 every written report, as defined in paragraph (2) of subdivision
5 (a) of Section 7550.5, required to be submitted to the Legislature
6 by any state agency, board, or commission, shall include a signed
7 statement by the head of that agency, or chair of the board or
8 commission, as described in subdivision (b), declaring under
9 penalty of perjury that the contents of the report are true,
10 accurate, and complete to the best of his or her knowledge.

11 (2) In the case of a board or commission whose chair is subject
12 to paragraph (1), as described in subdivision (b), if the board or
13 commission has an executive officer or executive director, the
14 signed statement described in paragraph (1) shall be made by the
15 executive officer or executive director.

16 (3) With respect to the Franchise Tax Board, the signed
17 statement described in paragraph (1) shall be made by the
18 executive officer of that board, and with respect to the State
19 Board of Equalization, the statement shall be made by the
20 executive director of that board.

21 (b) Paragraph (1) of subdivision (a) shall only apply to those
22 individuals appointed by the Governor and confirmed by the
23 Senate. It shall not be construed to apply to any elected official of
24 the state, or any official whose duties are prescribed by the
25 California Constitution.

26 (c) Notwithstanding any other provision of law, every written
27 report required to be submitted to the Controller pursuant to the
28 following provisions shall include a signed statement by the
29 officer of the local agency, declaring under penalty of perjury,
30 that the contents of the report are true, accurate, and complete to
31 the best of his or her knowledge:

32 (1) Reports submitted by a city, county, city and county, or
33 transit district pursuant to Section 53891.

34 (2) Reports submitted by a city, county, or city and county
35 pursuant to Section 2151 of the Streets and Highways Code.

1 (3) Reports submitted by a transit district pursuant to Sections
2 99243 and 99406 of the Public Utilities Code.

3 (d) Any person who declares as true any material matter
4 pursuant to this section that he or she knows to be false is guilty
5 of a misdemeanor, punishable by a fine not exceeding five
6 thousand dollars (\$5,000), by imprisonment in a county jail not
7 exceeding six months, or by both that fine and imprisonment.

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution for
10 certain costs that may be incurred by a local agency or school
11 district because, in that regard, this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the
13 penalty for a crime or infraction, within the meaning of Section
14 17556 of the Government Code, or changes the definition of a
15 crime within the meaning of Section 6 of Article XIII B of the
16 California Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2420 **VERSION:** INTRODUCED FEBRUARY 23, 2006

AUTHOR: LIEU **SPONSOR:** ASIAN AMERICANS FOR CIVIL
RIGHTS AND EQUALITY

RECOMMENDED POSITION: NONE

SUBJECT: STATE GOVERNMENT: COLLECTION OF DEMOGRAPHIC DATA

Existing Law:

- 1) Requires state agencies which directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for each major Asian and Pacific Islander group, including, but not limited to: (GC § 8310.5)
 - Asian Indian • Guamanian • Laotian
 - Cambodian • Hawaiian • Samoan
 - Chinese • Japanese • Vietnamese
 - Filipino • Korean
- 2) Prohibits including any question on any application or form required by a state agency pertaining to the applicant's race, sex, marital status or religion. (GC § 8310)
- 3) Requires all state agencies to categorize Filipinos separately in any statistical tabulation of minority groups. (GC § 11092)
- 4) Requires all state agencies to categorize Pacific Islanders separately in any statistical tabulation of minority groups. (GC § 11092.5)
- 5) Requires the Department of Finance (DOF) to report Asian-Pacific Islanders as a distinct category and not combine Asian-Pacific Islanders into any other category. (GC § 13073.1)
- 6) Prohibits a licensing board from printing or circulating any publication, or making any non-job-related inquiry that expresses any limitation, specification, or discrimination as to race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, sex, age, or sexual orientation unless that board is acting in accordance with federal equal employment opportunity guidelines or regulations. (GC § 12944 (c))

This Bill:

- 1) Requires state agencies which directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for each major Asian and Pacific Islander group, including, but not limited to: (GC § 8310.5)
 - Asian Indian • Indonesian • Sri Lankan
 - Bangladeshi • Japanese • Taiwanese
 - Cambodian • Korean • Thai

- Chinese
- Fijian
- Filipino
- Guamanian
- Hmong
- Laotian
- Malaysian
- Native Hawaiian
- Pakistani
- Samoan
- Tongan
- Vietnamese
- Other Asian
- Other Pacific Islander

Comment:

1) Author's Intent. According to the author, the Asian American and Pacific Islander communities are very diverse and have different histories and needs. They are commonly seen as a homogeneous group, though that is not the case. This bill is constructed by how the U.S. Census reports their data. According to the sponsor, current statutes recognize the diversity of the Asian American community, but many communities are not captured. The U.S. Census is a model that allows ethnicity to be written in if a category is not provided. This has provided a lot of information on how specific communities are faring. There are new and emerging communities and we need to know about their experiences in California. Data for Asian Americans can sometimes mask the needs of specific groups. This bill is a way of gathering better information to help target specific needs.

2) Technical Issues. This proposal is concerning due to several technical issues. The bill proposes collecting information regarding 23 different Asian and Pacific Islander subgroups. The ability to compare data with other data is important, and the number of subcategories could present problems in this area. The U.S. Census only collects data in the major groups of "Asian" and "Native Hawaiian or other Pacific Islander." U.S. Census data is frequently used in California, and state agencies are currently required to collect information regarding 11 Asian and Pacific Islander subgroups.

Although the subgroup information could be collapsed into the major categories, it is preferable to collect data in a manner that would not interfere with response rates. Longer surveys are known to produce smaller response rates, and this bill would add 11 more check boxes. Additionally, state surveys are often sent to a maximum of 1,000 persons. This would result in tiny response for some subgroups. When information is needed about a particular group, it would be better to identify and survey persons from that group directly.

3) Self-ID vs. Ancestry. Any collection of data pertaining to ethnic origin is complicated by the issue of self-identification of ethnicity versus ancestry. A person's ethnic affiliation may not be at all related to his or her ethnic ancestry. For example, a Chinese child adopted by an Italian family may self-identify as Italian even though her ethnic ancestry is Chinese.

This issue also impacts many people of mixed heritage, for whom it can be difficult to accurately identify ethnicity when limited to specific categories such as "African American." Additionally, ethnic groups tend to evolve, and even the name of the ethnic group can change. Over time, an individual's ethnic identity can evolve. There is not a simple answer for these issues.

4) BBS. The Board does not currently collect racial or ethnic data of its licensees, registrants, or applicants, but an anonymous survey is being developed.

5) Support and Opposition.
None known at this time.

6) History

2006

Mar. 30

Referred to Com. on B. & P.

Feb. 24

From printer. May be heard in committee March 26.

Feb. 23

Read first time. To print.

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ASSEMBLY BILL

No. 2420

**Introduced by Assembly Member Lieu
(Coauthors: Assembly Members Chan, Chu, Liu, Torrico, and
Yee)**

February 23, 2006

An act to amend Section 8310.5 of the Government Code, relating to state agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2420, as introduced, Lieu. State government: state agencies, boards, and commissions: collection of demographic data.

Existing law requires any state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for each major Asian and Pacific Islander group, including, but not limited to, Chinese, Japanese, Filipino, Korean, Vietnamese, Asian Indian, Hawaiian, Guamanian, Samoan, Laotian, Cambodian.

This bill would also require a separate collection category and tabulation for Bangladeshi, Fijian, Hmong, Indonesian, Malaysian, Pakistani, Sri Lankan, Taiwanese, Thai, Tongan, other Asian, and other Pacific Islander.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8310.5 of the Government Code is
2 amended to read:

1 8310.5. Any state agency, board, or commission ~~which~~ *that*
2 directly or by contract collects demographic data as to the
3 ancestry or ethnic origin of Californians shall use separate
4 collection categories and tabulations for each major Asian and
5 Pacific Islander group, including, but not limited to, ~~Chinese,~~
6 ~~Japanese, Filipino, Korean, Vietnamese, Asian Indian, Hawaiian,~~
7 ~~Guamanian, Samoan, Laotian, and Cambodian~~ *Asian Indian,*
8 *Bangladeshi, Cambodian, Chinese, Fijian, Filipino, Guamanian,*
9 *Hmong, Indonesian, Japanese, Korean, Laotian, Malaysian,*
10 *Native Hawaiian, Pakistani, Samoan, Sri Lankan, Taiwanese,*
11 *Thai, Tongan, Vietnamese, other Asian, and other Pacific*
12 *Islander.*

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2428 **VERSION:** INTRODUCED FEBRUARY 23, 2006

AUTHOR: CANCIAMILLA **SPONSOR:** AUTHOR

RECOMMENDED POSITION: OPPOSE

SUBJECT: PUBLIC MEETINGS

Existing Law:

- 1) Defines "state body" as: (GC § 11121)
 - A state board, or commission, or similar multimember body
 - An advisory board or commission, committee, subcommittee, or similar multimember advisory body of a state body that consists of three or more persons.
- 2) Defines "meeting" as a congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body. (GC § 11122.5(a))
- 3) Requires all meetings of a state body to be open and public and permits all persons to attend any meeting of a state body except in certain circumstances. (GC § 11123(a))
- 4) Prohibits requiring any person to register his or her name, to provide other information, to complete a questionnaire, or to otherwise fulfill any condition before attendance at a meeting of a state body. (GC § 11124)
- 5) Permits use of a voluntary attendance list, questionnaire, or other similar document which clearly states that the signing or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs or completes the document. (GC § 11124)
- 6) Requires a state body to provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item, unless the public has been provided the opportunity to comment on substantially the same item at a prior committee meeting. (GC § 11125.7(a))
- 7) Requires any statute, court rule, or other authority that limits the right of access to a public meeting to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (CA Constitution, Article 1, Section 3(a)(2))

This Bill:

- 1) Requires any person appearing before the Legislature or a legislative committee, who claims to represent a group, to disclose the following information: (GC § 9030.5)
 - The number of persons in the group
 - The group's top three sources of funding

- The location of the group's headquarters or where the group is based.
- 2) Permits a state agency or legislative body of a local agency to require any person who claims to represent a group and is appearing before such an entity at a public meeting to disclose the following information: (GC § § 11125.7, 54954.3)
- The number of persons in the group
 - The group's top three sources of funding
 - The location of the group's headquarters or where the group is based.

Comment:

- 1) **Author's Intent.** According to the author, this legislation is part of a package of bills designed to create fundamental change in the way the state does business. This bill is about disclosure. Legislators are required to make certain disclosures; the author is asking those on the other side of the table to do the same thing.
- 2) **Public Meeting Laws.** The BBS is governed by the requirements set forth by the Bagley-Keene Open Meeting Act, which prohibits requiring anyone to provide information, complete a questionnaire, or to otherwise fulfill any condition before attendance at a meeting of a state body. The California Constitution requires any statute that limits the right of access to a public meeting to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. This bill may be in conflict with these laws.
- 3) **BBS Public Meetings.** This bill would not require, but would provide the Board with the option to require persons who appear at public meetings and claim to represent a group to disclose certain information about the group. Such a requirement is coercive and could have a chilling effect on the public's willingness to speak freely before the Board. The purpose of public meetings is to have the citizens participate in discussion and decision-making. This proposal would stifle the free flow of information to the Board from the public. It would directly interfere with one of the principal strengths of the system of Boards and open meetings, which is to allow citizens to directly communicate with their government and its representatives.
- 4) **Support and Opposition.**
None known at this time.
- 5) **History**
2006
Feb. 24 From printer. May be heard in committee March 26.
Feb. 23 Read first time. To print.

ASSEMBLY BILL

No. 2428

**Introduced by Assembly Member Canciamilla
(Coauthor: Assembly Member Richman)**

February 23, 2006

An act to amend Sections 11125.7 and 54954.3 of, and to add Section 9030.5 to, the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 2428, as introduced, Canciamilla. Public meetings.

Existing law, the Bagley-Keene Open Meeting Act, generally requires that the meetings of state bodies be open and public and all persons be permitted to attend. The existing Ralph M. Brown Act generally requires that the meetings of local bodies be open and public and all persons be permitted to attend. Both acts require that the agenda for meetings provide an opportunity for members of the public to directly address the body on any item of interest to the public that is within the subject matter jurisdiction of the body. Other provisions of existing law require that all meetings of a house of the Legislature or a committee thereof be open and public and all persons be permitted to attend.

This bill would authorize a state body subject to the Bagley-Keene Open Meeting Act and a local body subject to the Ralph M. Brown Act to require that a speaker addressing the body who claims to represent a group disclose the number of members in the group, the top 3 sources of funding for the group, and the location of the group's headquarters or where the group is based. It would require any person who appears before a house of the Legislature or any committee thereof who claims to represent a group to make the same disclosures.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9030.5 is added to the Government
2 Code, to read:
3 9030.5. When any person who appears before a house of the
4 Legislature or any committee thereof claims to represent a group,
5 the person shall be required to disclose all of the following:
6 (a) The number of persons in the group.
7 (b) The group's top three sources of funding.
8 (c) The location of the group's headquarters or where the
9 group is based.
10 SEC. 2. Section 11125.7 of the Government Code is amended
11 to read:
12 11125.7. (a) Except as otherwise provided in this section, the
13 state body shall provide an opportunity for members of the public
14 to directly address the state body on each agenda item before or
15 during the state body's discussion or consideration of the item.
16 This section is not applicable if the agenda item has already been
17 considered by a committee composed exclusively of members of
18 the state body at a public meeting where interested members of
19 the public were afforded the opportunity to address the
20 committee on the item, before or during the committee's
21 consideration of the item, unless the item has been substantially
22 changed since the committee heard the item, as determined by
23 the state body. Every notice for a special meeting at which action
24 is proposed to be taken on an item shall provide an opportunity
25 for members of the public to directly address the state body
26 concerning that item prior to action on the item. In addition, the
27 notice requirement of Section 11125 shall not preclude the
28 acceptance of testimony at meetings, other than emergency
29 meetings, from members of the public, provided, however, that
30 no action is taken by the state body at the same meeting on
31 matters brought before the body by members of the public.
32 (b) The state body may adopt reasonable regulations to ensure
33 that the intent of subdivision (a) is carried out, including, but not
34 limited to, regulations limiting the total amount of time allocated
35 for public comment on particular issues and for each individual

1 speaker. *The body may require a speaker who claims to represent*
2 *a group to disclose all of the following:*

3 (1) *The number of persons in the group.*

4 (2) *The group's top three sources of funding.*

5 (3) *The location of the group's headquarters or where the*
6 *group is based.*

7 (c) The state body shall not prohibit public criticism of the
8 policies, programs, or services of the state body, or of the acts or
9 omissions of the state body. Nothing in this subdivision shall
10 confer any privilege or protection for expression beyond that
11 otherwise provided by law.

12 (d) This section is not applicable to closed sessions held
13 pursuant to Section 11126.

14 (e) This section is not applicable to decisions regarding
15 proceedings held pursuant to Chapter 5 (commencing with
16 Section 11500), relating to administrative adjudication, or to the
17 conduct of those proceedings.

18 (f) This section is not applicable to hearings conducted by the
19 State Board of Control pursuant to Sections 13963 and 13963.1.

20 (g) This section is not applicable to agenda items that involve
21 decisions of the Public Utilities Commission regarding
22 adjudicatory hearings held pursuant to Chapter 9 (commencing
23 with Section 1701) of Part 1 of Division 1 of the Public Utilities
24 Code. For all other agenda items, the commission shall provide
25 members of the public, other than those who have already
26 participated in the proceedings underlying the agenda item, an
27 opportunity to directly address the commission before or during
28 the commission's consideration of the item.

29 SEC. 3. Section 54954.3 of the Government Code is amended
30 to read:

31 54954.3. (a) Every agenda for regular meetings shall provide
32 an opportunity for members of the public to directly address the
33 legislative body on any item of interest to the public, before or
34 during the legislative body's consideration of the item, that is
35 within the subject matter jurisdiction of the legislative body,
36 provided that no action shall be taken on any item not appearing
37 on the agenda unless the action is otherwise authorized by
38 subdivision (b) of Section 54954.2. However, the agenda need
39 not provide an opportunity for members of the public to address
40 the legislative body on any item that has already been considered

1 by a committee, composed exclusively of members of the
2 legislative body, at a public meeting wherein all interested
3 members of the public were afforded the opportunity to address
4 the committee on the item, before or during the committee's
5 consideration of the item, unless the item has been substantially
6 changed since the committee heard the item, as determined by
7 the legislative body. Every notice for a special meeting shall
8 provide an opportunity for members of the public to directly
9 address the legislative body concerning any item that has been
10 described in the notice for the meeting before or during
11 consideration of that item.

12 (b) The legislative body of a local agency may adopt
13 reasonable regulations to ensure that the intent of subdivision (a)
14 is carried out, including, but not limited to, regulations limiting
15 the total amount of time allocated for public testimony on
16 particular issues and for each individual speaker. *The body may*
17 *require a speaker who claims to represent a group to disclose all*
18 *of the following:*

19 (1) *The number of members in the group.*

20 (2) *The group's top three sources of funding.*

21 (3) *The location of the group's headquarters or where the*
22 *group is based.*

23 (c) The legislative body of a local agency shall not prohibit
24 public criticism of the policies, procedures, programs, or services
25 of the agency, or of the acts or omissions of the legislative body.
26 Nothing in this subdivision shall confer any privilege or
27 protection for expression beyond that otherwise provided by law.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 3013 **VERSION:** INTRODUCED FEBRUARY 24, 2006

AUTHOR: NUNEZ **SPONSOR:** CAMFT

RECOMMENDED POSITION: SUPPORT

SUBJECT: MEDICAL INFORMATION: DISCLOSURES

Existing Law:

- 1) Defines "provider of health care" as any person licensed or certified to provide health care; any clinic, health dispensary, or licensed health facility. (Civil Code § 56.05 (j))
- 2) Defines "medical information" as any individually identifiable information, in electronic or physical form, derived from a provider of health care regarding a patient's medical history, mental or physical condition, or treatment. (Civil Code § 56.05 (g))
- 3) Permits a provider of health care to release at its discretion, the following information regarding a specific patient upon an inquiry, unless there is a specific written request by the patient to the contrary: (Civil Code § 56.16)
 - The patient's name and address
 - The patient's age and sex
 - A **general** description of the reason for treatment (whether an injury, a burn, poisoning or some unrelated condition)
 - The **general** nature of the injury, burn, poisoning or other condition
 - The **general** condition of the patient
 - Any information that is not medical information
- 4) Prohibits a provider of health care from disclosing medical information regarding a patient without first obtaining an authorization, except in certain circumstances. (Civil Code § 56.10)
- 5) Prohibits a provider of health care from releasing information specifically related to outpatient treatment with a psychotherapist to a person or entity authorized to receive medical information, unless the person or entity requesting that information submits a written request to the patient and health care provider, signed by the person requesting the information. (Civil Code § 56.104(a))
- 6) Permits a health care provider to maintain a directory of individuals in its facility and to disclose the following protected health information for directory purposes to those who ask for the individual by name, unless an objection is expressed by the patient: (45 CFR § 160.202(a))
 - The individual's name
 - The individual's location in the covered health care provider's facility
 - The individual's condition described in general terms that does not communicate specific medical information about the individual

- The individual's religious affiliation (only to members of the clergy)
- 7) Requires a health care provider to inform an individual of the protected health information that it may include in a directory and the persons to whom it may disclose such information and provide the individual with the opportunity to restrict or prohibit some or all of the uses or disclosures; or in an emergency, as soon as it becomes practicable to do so. (45 CFR § 160.202(a))
 - 8) Permits a covered health care provider to use or disclose some or all of the protected health information for the facility's directory if the opportunity to object to uses or disclosures cannot practicably be provided because of the individual's incapacity or an emergency treatment circumstance, if such disclosure is: (45 CFR § 160.202(a)(3))
 - Consistent with a prior expressed preference of the individual, if any, that is known to the covered health care provider; and
 - In the individual's best interest as determined by the covered health care provider, in the exercise of professional judgment.

This Bill:

- 1) Permits a provider of health care to release at its discretion, the following information regarding a specific patient **when solely related to a physical injury** upon an inquiry, unless there is a specific written request by the patient to the contrary: (Civil Code § 56.16)
 - The patient's name and address
 - The patient's age and sex
 - A general description of the reason for treatment (whether an injury, a burn, poisoning or some unrelated **physical** condition)
 - The general nature of the injury, burn, poisoning or other **physical** condition
 - The general condition of the patient
 - Any information that is not medical information

Comment:

- 1) **Author's Intent.** According to the author, this bill was prompted by a lawsuit against a doctor who disclosed medical information to an employer. The purpose of this bill is to prevent disclosure of mental health information. The office is still considering different approaches to this legislation. According to the sponsor, they are appalled that a mental health professional may lawfully share what is believed to be confidential information about a patient pursuant to the California Civil Code. It is the sponsor's desire to not permit such disclosures by mental health professionals and to limit such disclosures to be made by physical health care providers.
- 2) **Garrett v. Young [109 Cal.App.4th 1413].** In the case referred to by the author, the complainant (Garrett) had sought medical treatment from her doctor (Young, the respondent) for symptoms she felt were being caused by the conditions at her job. She had been diagnosed with, among other things, anxiety and depression. Dr. Young revealed to Ms. Garrett's employer that she was experiencing "stress." Ms. Garrett accused Dr. Young of disclosing personal and confidential medical information to her supervisor, who then used this information to support his termination of her employment and disclosed the information to other parties.

The court ruled that the Ms. Garrett had "no reasonable expectation of privacy in the information conveyed to her employer" and that "the disclosures could not be seen as substantial violations of her right to privacy" because she had discussed some of her

symptoms with her supervisor, asked his advice about where to go for medical treatment, had provided him with doctor's notes excusing her absences from work. The court additionally ruled that Ms. Garrett's "continuous and open discussion" with her co-workers regarding her feelings that she had been treated unfairly and abused, "undermined her claim that [Dr. Young] seriously interfered with her privacy rights."

- 3) HIPAA.** HIPAA preempts most contrary state privacy laws except for cases where state law is more stringent than the HIPAA privacy requirement. In its *HIPAA Preemption Analysis: Confidentiality of Medical Information Act, Civil Code § 56, et. seq.*, The California Office of HIPAA Implementation stated that 45 CFR § 160.202(a) completely preempts California Civil Code § 56.16:

"Although HIPAA also provides for limited disclosures pursuant to specific requests concerning an individual's location and general condition (i.e., "directory purposes"), it is much more restrictive than the California provision and thus completely pre-empts California Law."

The author believes that many therapists operate on a cash or check basis, so HIPAA does not apply to them. However, once a therapist makes even one electronic transaction (i.e., uses the internet to transmit administrative or insurance information), he or she falls under HIPAA. Studies have shown that the vast majority of therapists accept insurance. A 2004 study of Marriage and Family Therapists showed that 92% accept some form of insurance.¹ However, any therapist who submits insurance claims by mail or fax, or gives the insurance forms to patients to mail or fax, is not covered by HIPAA. See "Existing Law" numbers 6, 7, and 8 of this analysis for pertinent HIPAA rules.

- 4) BBS Strategic Plan.** Even though the HIPAA provisions prevail in the vast majority of cases, this bill would strengthen confidentiality requirements for clients whose therapists who do not fall under HIPAA. It would also help to clarify confidentiality laws for those who do fall under HIPAA, thus helping to ensure such laws are implemented correctly by providers. Therefore, should the Board decide to support this bill, it could help to fulfill Strategic Plan Objective 3.4, "Advocate for five laws that protect the privacy of client/therapist relationships by December 31, 2010."
- 5) Suggested Amendment.** Section 56.16 makes an erroneous referral to Civil Code Section 56.05, subdivision (c) for the definition of "medical information." The statute should instead refer to subdivision (g), which provides this definition:

Unless there is a specific written request by the patient to the contrary, nothing in this part shall be construed to prevent a provider, upon an inquiry concerning a specific patient, from releasing at its discretion any of the following information, when related solely to a physical injury suffered by that patient : the patient's name, address, age, and sex; a general description of the reason for treatment (whether an injury, a burn, poisoning, or some unrelated physical condition); the general nature of the injury, burn, poisoning, or other physical condition; the general condition of the patient; and any information that is not medical information as defined in subdivision ~~(e)~~ (g) of Section 56.05.

- 6) Support and Opposition.**
None known at this time.

7) History

¹ The Typical California MFT: 2004 CAMFT Member Practice and Demographic Survey.

2006

Mar. 20	Set for Hearing Apr. 18
Mar. 20	Referred to Com. on HEALTH.
Feb. 27	Read first time.
Feb. 25	From printer. May be heard in committee March 27.
Feb. 24	Introduced. To print.

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 3013

Introduced by Assembly Member ~~Nunez~~ Koretz

February 24, 2006

An act to amend Section 56.16 of the Civil Code, relating to medical information.

LEGISLATIVE COUNSEL'S DIGEST

AB 3013, as amended, ~~Nunez~~ Koretz. Medical information: disclosures.

The Confidentiality of Medical Information Act allows a provider of health care, upon an inquiry concerning a specific patient, to release at its discretion a patient's name, address, age, and sex; a general description of the reason for treatment; the general nature of the injury, burn, poisoning, or other condition; the general condition of the patient; and any information that is not medical information, as defined, unless there is a specific written request by the patient to prohibit that release. Notwithstanding that provision, the act prohibits a provider of health care, a health care service plan, contractor, or corporation and its subsidiaries and affiliates from intentionally sharing, selling, or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, except as expressly authorized by the patient, enrollee, or subscriber, as specified, or as otherwise required or authorized by law.

Violations of these provisions are subject to a civil action for compensatory and punitive damages, and, if a violation results in economic loss or personal injury to a patient, it is punishable as a misdemeanor.

This bill would prohibit a provider of health care from making discretionary releases that are unrelated to a physical injury suffered by a patient, and would limit certain disclosures about a patient's condition to his or her physical condition.

By expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56.16 of the Civil Code is amended to
2 read:

3 56.16. Unless there is a specific written request by the patient
4 to the contrary, nothing in this part shall be construed to prevent
5 a provider, upon an inquiry concerning a specific patient, from
6 releasing at its discretion any of the following information, when
7 related solely to a physical injury suffered by that patient: the
8 patient's name, address, age, and sex; a general description of the
9 reason for treatment (whether an injury, a burn, poisoning, or
10 some unrelated physical condition); the general nature of the
11 injury, burn, poisoning, or other physical condition; the general
12 condition of the patient; and any information that is not medical
13 information as defined in subdivision (c) of Section 56.05.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the
19 penalty for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition of a

- 1 crime within the meaning of Section 6 of Article XIII B of the
- 2 California Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 525 **VERSION:** AMENDED IN SENATE MARCH 7, 2006

AUTHOR: CHU **SPONSOR:** CAMFT

RECOMMENDED POSITION: NONE

SUBJECT: CHILD ABUSE REPORTING

Existing Law:

- 1) Requires the following practitioners to report suspected child abuse or neglect: (PC § 11165.7)
 - Marriage and Family Therapists (MFT), MFT interns and trainees
 - Social workers, including Licensed Clinical Social Workers (LCSW) and Associate Clinical Social Workers (ACSW)
 - Licensed Educational Psychologists (LEP)
 - Other persons and professionals who come into direct contact with children, elders, and dependent adults
- 2) Defines "child abuse or neglect" as: (PC § 11165.3, 11165.6)
 - Physical injury inflicted intentionally upon a child
 - Sexual abuse
 - Neglect
 - Intentionally causing or permitting a child to suffer
 - Inflicting unjustifiable physical pain or mental suffering
 - Causing or permitting the child to be placed in a situation where the child or the child's health is endangered
 - Unlawful corporal punishment or injury.
- 3) Requires a mandated reporter to report child abuse immediately or as soon as possible by telephone and in writing within 36 hours when, in his or her professional capacity, he or she reasonably suspects a child has been the victim of child abuse or neglect. (PC § 11166(a))
- 4) Permits a mandated reporter to make a report of child emotional abuse (not "unjustifiable mental suffering" which is considered child abuse), defined as a child who is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, evidenced by, but not limited to, the following: (PC § 11166.05)
 - Severe anxiety
 - Depression
 - Withdrawal
 - Untoward aggressive behavior toward self or others
- 5) Requires reports of suspected child abuse or neglect to be made by mandated reporters to any entity required to accept mandated reports. (PC § 11165.9)

- 6) Permits the mandated reporter to release information related to the incident of child abuse or neglect to an investigator from an agency that is investigating the case of child abuse or neglect or to the pertinent branch of the Department of Social Services. (PC § 11167(b), 11167(c)))
- 7) Requires the identity of mandated reporters to be confidential and disclosed only among involved agencies, or to the prosecutor of alleged child abuse, to counsel, or to the Department of Social Services when abuse or neglect in out-of-home care is reasonably suspected, or when the mandated reporter waives confidentiality, or by court order. (PC § 11167(d)(1))
- 8) Requires the child abuse investigator to advise the individual who is being investigated of the complaints or allegations against him or her in a manner that protects the identity of the mandated reporter. (PC § 11167(e))
- 9) Requires reports of child abuse or neglect and any investigative reports that result in a summary report being filed with the Department of Justice to be confidential and to be disclosed only to those persons or entities as permitted by law. (PC § 11167.5(a))
- 10) Requires the agency investigating a report of child abuse or neglect to provide the mandated reporter with a report of the results of the investigation and of any action the agency is taking regarding the child or family upon completion of the investigation or after the case has been closed. (PC § 11170(b)(2))

This Bill:

- 1) Adds child emotional abuse to the definition of "child abuse and neglect." (PC § 11165.6)
- 2) Requires reports of suspected child emotional abuse to be made to any entity required to accept mandated reports. (PC § 11165.9)
- 3) Clarifies that the reporting of child emotional abuse is not a mandatory report. (PC § 11166(a))
- 4) Establishes the technical requirements of an authorized report of child emotional abuse. 11167(a).
- 5) Permits the authorized reporter to release information related to the incident of child emotional abuse to an investigator from an agency investigating the case or to the pertinent branch of the Department of Social Services. (PC § 11167(b), 11167(c))
- 6) Requires the identity of authorized reporters to be confidential and disclosed only among involved agencies, to the prosecutor, to counsel, or to the Department of Social Services, or when the authorized reporter waives confidentiality, or by court order. (PC § 11167(d)(1))
- 7) Requires the child abuse investigator to advise the individual who is subject to the investigation of the complaints or allegations against him or her in a manner that protects the identity of the authorized reporter. (PC § 11167(e))
- 8) Requires reports of child emotional abuse, and any investigative reports that result in a summary report being filed with the Department of Justice to be confidential and be disclosed only to those persons or entities as permitted by law. (PC § 11167.5(a))

- 9) Requires the agency investigating a report of child emotional abuse to provide the authorized reporter with a report of the results of the investigation and of any action the agency is taking with regard to the child or family upon completion of the investigation or after the case has been closed. (PC § 11170(b)(2))

Comment:

- 1) **Author's Intent.** According to the author, in the last few years, there have been a lot of changes to the child abuse law which has lead to confusion regarding the reporting of child emotional abuse. This bill makes conforming changes, including stating that emotional abuse is child abuse, that confidentiality protections also apply to those who report emotional abuse (the same as those who report other types of abuse), and that those who report emotional abuse are entitled to find out what happened, just as they would for a mandated report. According to the sponsor, a couple of years ago child emotional abuse was placed in a separate section of the penal code than the Child Abuse and Neglect Reporting Act, and as a result of its relocation does not appear to be a form of abuse. The sponsor wants to make it clear that emotional abuse is a form of abuse, even though it is permissive to report. Such is the case in 48 other states, whether the report is permissive or mandatory.
- 2) **Mandatory vs. Permissive.** This bill would impact all of the Board's licensees and registrants because they are mandated reporters of child abuse and neglect. One potential reading of this bill is that it would make the reporting of child emotional abuse mandatory. This is because the proposal adds child emotional abuse to the definition of child abuse, and child abuse is required to be reported.
- 3) **Suggested Amendments.**
- The proposed section 11165.6 appears to have a typographical error. The suggested amendment is as follows:

11165.6. As used in this article, the term "child abuse or neglect" includes physical injury inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse and neglect also includes instances in which a child suffers or is at substantial risk of suffering serious emotional damage as described in Section ~~11165.05~~ 11166.05. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.
 - The following addition is suggested in section 11167(d)(1) to clarify that confidentiality also applies to non-mandated reports, in line with the sponsor's intent:

11167(d)(1) The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated or authorized reports, to the prosecutor in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and

Institutions Code, or to a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

4) Support and Opposition.

None known at this time.

5) History

2006

Mar. 22 Withdrawn from committee. Re-referred to Com. on PUB. S.
Mar. 15 Re-referred to Coms. on HUMAN S. and PUB. S.
Mar. 8 Withdrawn from committee. Re-referred to Com. on RLS.
Mar. 7 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HEALTH.
Feb. 2 Referred to Com. on HEALTH.
Jan. 26 In Senate. Read first time. To Com. on RLS. for assignment.
Jan. 26 Read third time, passed, and to Senate. (Ayes 48. Noes 27. Page 4112.)
Jan. 24 Read second time. To third reading.
Jan. 23 Read second time and amended. Ordered returned to second reading.
Jan. 19 From committee: Amend, and do pass as amended. (Ayes 13. Noes 0.) (January 19).

2005

May 25 In committee: Hearing postponed by committee.
May 18 In committee: Set, first hearing. Referred to APPR. suspense file.
Apr. 27 Re-referred to Com. on APPR.
Apr. 26 Read second time and amended.
Apr. 25 From committee: Amend, and do pass as amended, and re-refer to Com. on APPR. (Ayes 11. Noes 1.) (April 19).
Apr. 12 In committee: Set, first hearing. Hearing canceled at the request of author.
Apr. 5 Re-referred to Com. on HEALTH.
Apr. 4 From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
Feb. 28 Referred to Com. on HEALTH.
Feb. 17 From printer. May be heard in committee March 19.
Feb. 16 Read first time. To print.

AMENDED IN SENATE MARCH 7, 2006
AMENDED IN ASSEMBLY JANUARY 23, 2006
AMENDED IN ASSEMBLY APRIL 26, 2005
AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 525

Introduced by Assembly Member Chu

February 16, 2005

An act to ~~add Section 12698.02 to the Insurance Code, relating to health care;~~ *amend Sections 11165.6, 11165.9, 11166, 11167, 11167.5, and 11170 of the Penal Code, relating to child abuse reporting.*

LEGISLATIVE COUNSEL'S DIGEST

AB 525, as amended, Chu. ~~Health care: Access for Infants and Mothers Program.~~ *Child abuse reporting.*

Existing law defines the term “child abuse or neglect” for purposes of mandatory reporting of suspected instances of child abuse or neglect. Existing law specifies certain agencies to which mandated reports of suspected child abuse or neglect shall be made. Existing law requires those agencies to forward those reports that are determined not to be unfounded to the Department of Justice. Existing law also authorizes, but does not require, the reporting of instances where a child suffers or is at substantial risk of suffering serious emotional damage, as specified.

This bill would include within that definition of “child abuse or neglect,” instances where a child suffers or is at substantial risk of

suffering serious emotional damage, as defined. This bill would generally conform the procedures for authorized reporting of instances of child abuse or neglect involving emotional damage, as specified, to certain existing procedures applicable to mandated child abuse reporting.

By increasing the reporting burden on local law enforcement agencies, this bill would impose a state-mandated local program.

Existing law requires a representative of a child protective services agency performing an investigation resulting from a required report of suspected child abuse or neglect to inform the individual who is the subject of the investigation, at the first contact, of the complaints or allegations against that person, as specified.

This bill would apply that requirement in the context of reports of child abuse or neglect involving serious emotional damage that are authorized to be reported.

By increasing the duties of local government entities in connection with investigating certain instances of suspected child abuse, this bill would impose a state-mandated local program.

Existing law requires the investigating agency investigating suspected child abuse or neglect, upon completion of the investigation or after there has been a final disposition of the matter, to inform the mandated reporter of the results of the investigation and of any action the agency is taking with regard to the child or family.

This bill would apply that requirement to the context of reports of child abuse or neglect involving serious emotional damage that are authorized to be reported.

By increasing the duties of local government entities in connection with investigating certain instances of suspected child abuse, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law establishes the Access for Infants and Mothers (AIM) Program, administered by the Managed Risk Medical Insurance Board, to provide health care coverage for certain eligible persons~~

who pay a subscriber contribution. The AIM Program provides coverage, at a minimum, to subscribers during one pregnancy, and for 60 days thereafter, and to children less than 2 years of age who were born of a pregnancy covered under this program to a woman enrolled in the program before July 1, 2004.

~~This bill would prohibit the board from imposing a written verification of pregnancy requirement as a condition of eligibility for the AIM Program.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 11165.6 of the Penal Code is amended*
2 *to read:*

3 11165.6. As used in this article, the term “child abuse or
4 neglect” includes physical injury inflicted by other than
5 accidental means upon a child by another person, sexual abuse as
6 defined in Section 11165.1, neglect as defined in Section
7 11165.2, the willful harming or injuring of a child or the
8 endangering of the person or health of a child, as defined in
9 Section 11165.3, and unlawful corporal punishment or injury as
10 defined in Section 11165.4. “Child abuse and neglect also
11 includes instances in which a child suffers or is at substantial
12 risk of suffering serious emotional damage as described in
13 Section 11165.05. “Child abuse or neglect” does not include a
14 mutual affray between minors. “Child abuse or neglect” does not
15 include an injury caused by reasonable and necessary force used
16 by a peace officer acting within the course and scope of his or her
17 employment as a peace officer.

18 *SEC. 2. Section 11165.9 of the Penal Code is amended to*
19 *read:*

20 11165.9. Reports of suspected child abuse or neglect shall be
21 made by mandated reporters, *or in the case of reports pursuant to*
22 *Section 11166.05, may be made,* to any police department or
23 sheriff’s department, not including a school district police or
24 security department, county probation department, if designated
25 by the county to receive mandated reports, or the county welfare
26 department. Any of those agencies shall accept a report of
27 suspected child abuse or neglect whether offered by a mandated

1 reporter or another person, or referred by another agency, even if
2 the agency to whom the report is being made lacks subject matter
3 or geographical jurisdiction to investigate the reported case,
4 unless the agency can immediately electronically transfer the call
5 to an agency with proper jurisdiction. When an agency takes a
6 report about a case of suspected child abuse or neglect in which
7 that agency lacks jurisdiction, the agency shall immediately refer
8 the case by telephone, fax, or electronic transmission to an
9 agency with proper jurisdiction. Agencies that are required to
10 receive reports of suspected child abuse or neglect may not
11 refuse to accept a report of suspected child abuse or neglect from
12 a mandated reporter or another person unless otherwise
13 authorized pursuant to this section, and shall maintain a record of
14 all reports received.

15 *SEC. 3. Section 11166 of the Penal Code is amended to read:*

16 11166. (a) Except as provided in subdivision (d), *and in*
17 *Section 11166.05*, a mandated reporter shall make a report to an
18 agency specified in Section 11165.9 whenever the mandated
19 reporter, in his or her professional capacity or within the scope of
20 his or her employment, has knowledge of or observes a child
21 whom the mandated reporter knows or reasonably suspects has
22 been the victim of child abuse or neglect. The mandated reporter
23 shall make an initial report to the agency immediately or as soon
24 as is practicably possible by telephone and the mandated reporter
25 shall prepare and send, fax, or electronically transmit a written
26 followup report thereof within 36 hours of receiving the
27 information concerning the incident. The mandated reporter may
28 include with the report any nonprivileged documentary evidence
29 the mandated reporter possesses relating to the incident.

30 (1) For the purposes of this article, “reasonable suspicion”
31 means that it is objectively reasonable for a person to entertain a
32 suspicion, based upon facts that could cause a reasonable person
33 in a like position, drawing, when appropriate, on his or her
34 training and experience, to suspect child abuse or neglect. For the
35 purpose of this article, the pregnancy of a minor does not, in and
36 of itself, constitute a basis for a reasonable suspicion of sexual
37 abuse.

38 (2) The agency shall be notified and a report shall be prepared
39 and sent, faxed, or electronically transmitted even if the child has
40 expired, regardless of whether or not the possible abuse was a

1 factor contributing to the death, and even if suspected child abuse
2 was discovered during an autopsy.

3 (3) Any report made by a mandated reporter pursuant to this
4 section shall be known as a mandated report.

5 (b) If after reasonable efforts a mandated reporter is unable to
6 submit an initial report by telephone, he or she shall immediately
7 or as soon as is practicably possible, by fax or electronic
8 transmission, make a one-time automated written report on the
9 form prescribed by the Department of Justice, and shall also be
10 available to respond to a telephone followup call by the agency
11 with which he or she filed the report. A mandated reporter who
12 files a one-time automated written report because he or she was
13 unable to submit an initial report by telephone is not required to
14 submit a written followup report.

15 (1) The one-time automated written report form prescribed by
16 the Department of Justice shall be clearly identifiable so that it is
17 not mistaken for a standard written followup report. In addition,
18 the automated one-time report shall contain a section that allows
19 the mandated reporter to state the reason the initial telephone call
20 was not able to be completed. The reason for the submission of
21 the one-time automated written report in lieu of the procedure
22 prescribed in subdivision (a) shall be captured in the Child
23 Welfare Services/Case Management System (CWS/CMS). The
24 department shall work with stakeholders to modify reporting
25 forms and the CWS/CMS as is necessary to accommodate the
26 changes enacted by these provisions.

27 (2) This subdivision shall not become operative until the
28 CWS/CMS is updated to capture the information prescribed in
29 this subdivision.

30 (3) This subdivision shall become inoperative three years after
31 this subdivision becomes operative or on January 1, 2009, which
32 ever occurs first.

33 (4) On the inoperative date of these provisions, a report shall
34 be submitted to the counties and the Legislature by the
35 Department of Social Services that reflects the data collected
36 from automated one-time reports indicating the reasons stated as
37 to why the automated one-time report was filed in lieu of the
38 initial telephone report.

39 (5) Nothing in this section shall supersede the requirement that
40 a mandated reporter first attempt to make a report via telephone,

1 or that agencies specified in Section 11165.9 accept reports from
2 mandated reporters and other persons as required.

3 (c) Any mandated reporter who fails to report an incident of
4 known or reasonably suspected child abuse or neglect as required
5 by this section is guilty of a misdemeanor punishable by up to six
6 months confinement in a county jail or by a fine of one thousand
7 dollars (\$1,000) or by both that imprisonment and fine. If a
8 mandated reporter intentionally conceals his or her failure to
9 report an incident known by the mandated reporter to be abuse or
10 severe neglect under this section, the failure to report is a
11 continuing offense until an agency specified in Section 11165.9
12 discovers the offense.

13 (d) (1) A clergy member who acquires knowledge or a
14 reasonable suspicion of child abuse or neglect during a
15 penitential communication is not subject to subdivision (a). For
16 the purposes of this subdivision, “penitential communication”
17 means a communication, intended to be in confidence, including,
18 but not limited to, a sacramental confession, made to a clergy
19 member who, in the course of the discipline or practice of his or
20 her church, denomination, or organization, is authorized or
21 accustomed to hear those communications, and under the
22 discipline, tenets, customs, or practices of his or her church,
23 denomination, or organization, has a duty to keep those
24 communications secret.

25 (2) Nothing in this subdivision shall be construed to modify or
26 limit a clergy member’s duty to report known or suspected child
27 abuse or neglect when the clergy member is acting in some other
28 capacity that would otherwise make the clergy member a
29 mandated reporter.

30 (3) (A) On or before January 1, 2004, a clergy member or any
31 custodian of records for the clergy member may report to an
32 agency specified in Section 11165.9 that the clergy member or
33 any custodian of records for the clergy member, prior to January
34 1, 1997, in his or her professional capacity or within the scope of
35 his or her employment, other than during a penitential
36 communication, acquired knowledge or had a reasonable
37 suspicion that a child had been the victim of sexual abuse that the
38 clergy member or any custodian of records for the clergy
39 member did not previously report the abuse to an agency

1 specified in Section 11165.9. The provisions of Section 11172
2 shall apply to all reports made pursuant to this paragraph.

3 (B) This paragraph shall apply even if the victim of the known
4 or suspected abuse has reached the age of majority by the time
5 the required report is made.

6 (C) The local law enforcement agency shall have jurisdiction
7 to investigate any report of child abuse made pursuant to this
8 paragraph even if the report is made after the victim has reached
9 the age of majority.

10 (e) Any commercial film and photographic print processor
11 who has knowledge of or observes, within the scope of his or her
12 professional capacity or employment, any film, photograph,
13 videotape, negative, or slide depicting a child under the age of 16
14 years engaged in an act of sexual conduct, shall report the
15 instance of suspected child abuse to the law enforcement agency
16 having jurisdiction over the case immediately, or as soon as
17 practicably possible, by telephone and shall prepare and send,
18 fax, or electronically transmit a written report of it with a copy of
19 the film, photograph, videotape, negative, or slide attached
20 within 36 hours of receiving the information concerning the
21 incident. As used in this subdivision, "sexual conduct" means
22 any of the following:

23 (1) Sexual intercourse, including genital-genital, oral-genital,
24 anal-genital, or oral-anal, whether between persons of the same
25 or opposite sex or between humans and animals.

26 (2) Penetration of the vagina or rectum by any object.

27 (3) Masturbation for the purpose of sexual stimulation of the
28 viewer.

29 (4) Sadomasochistic abuse for the purpose of sexual
30 stimulation of the viewer.

31 (5) Exhibition of the genitals, pubic, or rectal areas of any
32 person for the purpose of sexual stimulation of the viewer.

33 (f) Any mandated reporter who knows or reasonably suspects
34 that the home or institution in which a child resides is unsuitable
35 for the child because of abuse or neglect of the child shall bring
36 the condition to the attention of the agency to which, and at the
37 same time as, he or she makes a report of the abuse or neglect
38 pursuant to subdivision (a).

39 (g) Any other person who has knowledge of or observes a
40 child whom he or she knows or reasonably suspects has been a

1 victim of child abuse or neglect may report the known or
2 suspected instance of child abuse or neglect to an agency
3 specified in Section 11165.9.

4 (h) When two or more persons, who are required to report,
5 jointly have knowledge of a known or suspected instance of child
6 abuse or neglect, and when there is agreement among them, the
7 telephone report may be made by a member of the team selected
8 by mutual agreement and a single report may be made and signed
9 by the selected member of the reporting team. Any member who
10 has knowledge that the member designated to report has failed to
11 do so shall thereafter make the report.

12 (i) (1) The reporting duties under this section are individual,
13 and no supervisor or administrator may impede or inhibit the
14 reporting duties, and no person making a report shall be subject
15 to any sanction for making the report. However, internal
16 procedures to facilitate reporting and apprise supervisors and
17 administrators of reports may be established provided that they
18 are not inconsistent with this article.

19 (2) The internal procedures shall not require any employee
20 required to make reports pursuant to this article to disclose his or
21 her identity to the employer.

22 (3) Reporting the information regarding a case of possible
23 child abuse or neglect to an employer, supervisor, school
24 principal, school counselor, coworker, or other person shall not
25 be a substitute for making a mandated report to an agency
26 specified in Section 11165.9.

27 (j) A county probation or welfare department shall
28 immediately, or as soon as practicably possible, report by
29 telephone, fax, or electronic transmission to the law enforcement
30 agency having jurisdiction over the case, to the agency given the
31 responsibility for investigation of cases under Section 300 of the
32 Welfare and Institutions Code, and to the district attorney's
33 office every known or suspected instance of child abuse or
34 neglect, as defined in Section 11165.6, except acts or omissions
35 coming within subdivision (b) of Section 11165.2, or reports
36 made pursuant to Section 11165.13 based on risk to a child
37 which relates solely to the inability of the parent to provide the
38 child with regular care due to the parent's substance abuse, which
39 shall be reported only to the county welfare or probation
40 department. A county probation or welfare department also shall

1 send, fax, or electronically transmit a written report thereof
2 within 36 hours of receiving the information concerning the
3 incident to any agency to which it makes a telephone report
4 under this subdivision.

5 (k) A law enforcement agency shall immediately, or as soon as
6 practicably possible, report by telephone, fax, or electronic
7 transmission to the agency given responsibility for investigation
8 of cases under Section 300 of the Welfare and Institutions Code
9 and to the district attorney's office every known or suspected
10 instance of child abuse or neglect reported to it, except acts or
11 omissions coming within subdivision (b) of Section 11165.2,
12 which shall be reported only to the county welfare or probation
13 department. A law enforcement agency shall report to the county
14 welfare or probation department every known or suspected
15 instance of child abuse or neglect reported to it which is alleged
16 to have occurred as a result of the action of a person responsible
17 for the child's welfare, or as the result of the failure of a person
18 responsible for the child's welfare to adequately protect the
19 minor from abuse when the person responsible for the child's
20 welfare knew or reasonably should have known that the minor
21 was in danger of abuse. A law enforcement agency also shall
22 send, fax, or electronically transmit a written report thereof
23 within 36 hours of receiving the information concerning the
24 incident to any agency to which it makes a telephone report
25 under this subdivision.

26 *SEC. 4. Section 11167 of the Penal Code is amended to read:*

27 11167. (a) Reports of suspected child abuse or neglect
28 pursuant to Section 11166 *or Section 11166.05* shall include the
29 name, business address, and telephone number of the mandated
30 *or authorized* reporter; the capacity that makes the person a
31 mandated *or authorized* reporter; and the information that gave
32 rise to the reasonable suspicion of child abuse or neglect and the
33 source or sources of that information. If a report is made, the
34 following information, if known, shall also be included in the
35 report: the child's name, the child's address, present location,
36 and, if applicable, school, grade, and class; the names, addresses,
37 and telephone numbers of the child's parents or guardians; and
38 the name, address, telephone number, and other relevant personal
39 information about the person or persons who might have abused
40 or neglected the child. The mandated reporter shall make a report

1 even if some of this information is not known or is uncertain to
2 him or her.

3 (b) Information relevant to the incident of child abuse or
4 neglect may be given to an investigator from an agency that is
5 investigating the known or suspected case of child abuse or
6 neglect.

7 (c) Information relevant to the incident of child abuse or
8 neglect, including the investigation report and other pertinent
9 materials, may be given to the licensing agency when it is
10 investigating a known or suspected case of child abuse or
11 neglect.

12 (d) (1) The identity of all persons who report under this article
13 shall be confidential and disclosed only among agencies
14 receiving or investigating mandated reports, to the prosecutor in
15 a criminal prosecution or in an action initiated under Section 602
16 of the Welfare and Institutions Code arising from alleged child
17 abuse, or to counsel appointed pursuant to subdivision (c) of
18 Section 317 of the Welfare and Institutions Code, or to the
19 county counsel or prosecutor in a proceeding under Part 4
20 (commencing with Section 7800) of Division 12 of the Family
21 Code or Section 300 of the Welfare and Institutions Code, or to a
22 licensing agency when abuse or neglect in out-of-home care is
23 reasonably suspected, or when those persons waive
24 confidentiality, or by court order.

25 (2) No agency or person listed in this subdivision shall
26 disclose the identity of any person who reports under this article
27 to that person's employer, except with the employee's consent or
28 by court order.

29 (e) Notwithstanding the confidentiality requirements of this
30 section, a representative of a child protective services agency
31 performing an investigation that results from a report of
32 suspected child abuse or neglect made pursuant to Section 11166
33 *or Section 11166.05*, at the time of the initial contact with the
34 individual who is subject to the investigation, shall advise the
35 individual of the complaints or allegations against him or her, in
36 a manner that is consistent with laws protecting the identity of
37 the reporter under this article.

38 (f) Persons who may report pursuant to subdivision (f) of
39 Section 11166 are not required to include their names.

1 *SEC. 5. Section 11167.5 of the Penal Code is amended to*
2 *read:*

3 11167.5. (a) The reports required by Sections 11166 and
4 11166.2, *or authorized by Section 11166.05*, and child abuse or
5 neglect investigative reports that result in a summary report being
6 filed with the Department of Justice pursuant to subdivision (a)
7 of Section 11169 shall be confidential and may be disclosed only
8 as provided in subdivision (b). Any violation of the
9 confidentiality provided by this article is a misdemeanor
10 punishable by imprisonment in a county jail not to exceed six
11 months, by a fine of five hundred dollars (\$500), or by both that
12 imprisonment and fine.

13 (b) Reports of suspected child abuse or neglect and
14 information contained therein may be disclosed only to the
15 following:

16 (1) Persons or agencies to whom disclosure of the identity of
17 the reporting party is permitted under Section 11167.

18 (2) Persons or agencies to whom disclosure of information is
19 permitted under subdivision (b) of Section 11170 or subdivision
20 (a) of Section 11170.5.

21 (3) Persons or agencies with whom investigations of child
22 abuse or neglect are coordinated under the regulations
23 promulgated under Section 11174.

24 (4) Multidisciplinary personnel teams as defined in
25 subdivision (d) of Section 18951 of the Welfare and Institutions
26 Code.

27 (5) Persons or agencies responsible for the licensing of
28 facilities which care for children, as specified in Section 11165.7.

29 (6) The State Department of Social Services or any county
30 licensing agency which has contracted with the state, as specified
31 in paragraph (4) of subdivision (b) of Section 11170, when an
32 individual has applied for a community care license or child day
33 care license, or for employment in an out-of-home care facility,
34 or when a complaint alleges child abuse or neglect by an operator
35 or employee of an out-of-home care facility.

36 (7) Hospital scan teams. As used in this paragraph, "hospital
37 scan team" means a team of three or more persons established by
38 a hospital, or two or more hospitals in the same county,
39 consisting of health care professionals and representatives of law
40 enforcement and child protective services, the members of which

1 are engaged in the identification of child abuse or neglect. The
2 disclosure authorized by this section includes disclosure among
3 all hospital scan teams.

4 (8) Coroners and medical examiners when conducting a
5 postmortem examination of a child.

6 (9) The Board of Prison Terms, who may subpoena an
7 employee of a county welfare department who can provide
8 relevant evidence and reports that both (A) are not unfounded,
9 pursuant to Section 11165.12, and (B) concern only the current
10 incidents upon which parole revocation proceedings are pending
11 against a parolee charged with child abuse or neglect. The reports
12 and information shall be confidential pursuant to subdivision (d)
13 of Section 11167.

14 (10) Personnel from an agency responsible for making a
15 placement of a child pursuant to Section 361.3 of, and Article 7
16 (commencing with Section 305) of Chapter 2 of Part 1 of
17 Division 2 of, the Welfare and Institutions Code.

18 (11) Persons who have been identified by the Department of
19 Justice as listed in the Child Abuse Central Index pursuant to
20 paragraph (6) of subdivision (b) of Section 11170 or subdivision
21 (c) of Section 11170, or persons who have verified with the
22 Department of Justice that they are listed in the Child Abuse
23 Central Index as provided in subdivision (e) of Section 11170.
24 Disclosure under this paragraph is required notwithstanding the
25 California Public Records Act, Chapter 3.5 (commencing with
26 Section 6250) of Division 7 of Title 1 of the Government Code.
27 Nothing in this paragraph shall preclude a submitting agency
28 prior to disclosure from redacting any information necessary to
29 maintain confidentiality as required by law.

30 (12) Out-of-state law enforcement agencies conducting an
31 investigation of child abuse or neglect only when an agency
32 makes the request for reports of suspected child abuse or neglect
33 in writing and on official letterhead, identifying the suspected
34 abuser or victim by name. The request shall be signed by the
35 department supervisor of the requesting law enforcement agency.
36 The written request shall cite the out-of-state statute or interstate
37 compact provision that requires that the information contained
38 within these reports is to be disclosed only to law enforcement,
39 prosecutorial entities, or multidisciplinary investigative teams,
40 and shall cite the criminal penalties for unlawful disclosure

1 provided by the requesting state or the applicable interstate
2 compact provision. In the absence of both (A) a specific
3 out-of-state statute or interstate compact provision that requires
4 that the information contained within these reports be disclosed
5 only to law enforcement, prosecutorial entities, or
6 multidisciplinary investigative teams, and (B) criminal penalties
7 equivalent to the penalties in California for unlawful disclosure,
8 access shall be denied.

9 (13) Each chairperson of a county child death review team, or
10 his or her designee, to whom disclosure of information is
11 permitted under this article, relating to the death of one or more
12 children and any prior child abuse or neglect investigation reports
13 maintained involving the same victim, siblings, or suspects.
14 Local child death review teams may share any relevant
15 information regarding case reviews involving child death with
16 other child death review teams.

17 (c) Authorized persons within county health departments shall
18 be permitted to receive copies of any reports made by health
19 practitioners, as defined in paragraphs (21) to (28), inclusive, of
20 subdivision (a) of Section 11165.7, and pursuant to Section
21 11165.13, and copies of assessments completed pursuant to
22 Sections 123600 and 123605 of the Health and Safety Code, to
23 the extent permitted by federal law. Any information received
24 pursuant to this subdivision is protected by subdivision (e).

25 (d) Nothing in this section requires the Department of Justice
26 to disclose information contained in records maintained under
27 Section 11170 or under the regulations promulgated pursuant to
28 Section 11174, except as otherwise provided in this article.

29 (e) This section shall not be interpreted to allow disclosure of
30 any reports or records relevant to the reports of child abuse or
31 neglect if the disclosure would be prohibited by any other
32 provisions of state or federal law applicable to the reports or
33 records relevant to the reports of child abuse or neglect.

34 *SEC. 6. Section 11170 of the Penal Code is amended to read:*

35 11170. (a) (1) The Department of Justice shall maintain an
36 index of all reports of child abuse and severe neglect submitted
37 pursuant to Section 11169. The index shall be continually
38 updated by the department and shall not contain any reports that
39 are determined to be unfounded. The department may adopt rules
40 governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse and severe neglect to be maintained in the Child Abuse Central Index pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the Child Abuse Central Index accurately reflects the report it receives from the submitting agency.

(3) Information from an inconclusive or unsubstantiated report filed pursuant to subdivision (a) of Section 11169 shall be deleted from the Child Abuse Central Index after 10 years if no subsequent report concerning the same suspected child abuser is received within that time period. If a subsequent report is received within that 10-year period, information from any prior report, as well as any subsequently filed report, shall be maintained on the Child Abuse Central Index for a period of 10 years from the time the most recent report is received by the department.

(b) (1) The Department of Justice shall immediately notify an agency that submits a report pursuant to Section 11169, or a prosecutor who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse or severe neglect reported by the agency. The agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse or severe neglect.

(2) When a report is made pursuant to subdivision (a) of Section 11166, *or Section 11166.05*, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required *or authorized* to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The Department of Justice shall make available to a law enforcement agency, county welfare department, or county probation department that is conducting a child abuse investigation relevant information contained in the index.

1 (4) The department shall make available to the State
2 Department of Social Services or to any county licensing agency
3 that has contracted with the state for the performance of licensing
4 duties information regarding a known or suspected child abuser
5 maintained pursuant to this section and subdivision (a) of Section
6 11169 concerning any person who is an applicant for licensure or
7 any adult who resides or is employed in the home of an applicant
8 for licensure or who is an applicant for employment in a position
9 having supervisory or disciplinary power over a child or
10 children, or who will provide 24-hour care for a child or children
11 in a residential home or facility, pursuant to Section 1522.1 or
12 1596.877 of the Health and Safety Code, or Section 8714, 8802,
13 8912, or 9000 of the Family Code.

14 (5) For purposes of child death review, the Department of
15 Justice shall make available to the chairperson, or the
16 chairperson's designee, for each county child death review team,
17 or the State Child Death Review Council, information maintained
18 in the Child Abuse Central Index pursuant to subdivision (a) of
19 Section 11170 relating to the death of one or more children and
20 any prior child abuse or neglect investigation reports maintained
21 involving the same victims, siblings, or suspects. Local child
22 death review teams may share any relevant information regarding
23 case reviews involving child death with other child death review
24 teams.

25 (6) The department shall make available to investigative
26 agencies or probation officers, or court investigators acting
27 pursuant to Section 1513 of the Probate Code, responsible for
28 placing children or assessing the possible placement of children
29 pursuant to Article 6 (commencing with Section 300), Article 7
30 (commencing with Section 305), Article 10 (commencing with
31 Section 360), or Article 14 (commencing with Section 601) of
32 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
33 Code, Article 2 (commencing with Section 1510) or Article 3
34 (commencing with Section 1540) of Chapter 1 of Part 2 of
35 Division 4 of the Probate Code, information regarding a known
36 or suspected child abuser contained in the index concerning any
37 adult residing in the home where the child may be placed, when
38 this information is requested for purposes of ensuring that the
39 placement is in the best interests of the child. Upon receipt of
40 relevant information concerning child abuse or neglect

1 investigation reports contained in the index from the Department
2 of Justice pursuant to this subdivision, the agency or court
3 investigator shall notify, in writing, the person listed in the Child
4 Abuse Central Index that he or she is in the index. The
5 notification shall include the name of the reporting agency and
6 the date of the report.

7 (7) The Department of Justice shall make available to a
8 government agency conducting a background investigation
9 pursuant to Section 1031 of the Government Code of an
10 applicant seeking employment as a peace officer, as defined in
11 Section 830, information regarding a known or suspected child
12 abuser maintained pursuant to this section concerning the
13 applicant.

14 (8) (A) Persons or agencies, as specified in subdivision (b), if
15 investigating a case of known or suspected child abuse or
16 neglect, or the State Department of Social Services or any county
17 licensing agency pursuant to paragraph (4), or an investigative
18 agency, probation officer, or court investigator responsible for
19 placing children or assessing the possible placement of children
20 pursuant to paragraph (6), or a government agency conducting a
21 background investigation of an applicant seeking employment as
22 a peace officer pursuant to paragraph (7), to whom disclosure of
23 any information maintained pursuant to subdivision (a) is
24 authorized, are responsible for obtaining the original
25 investigative report from the reporting agency, and for drawing
26 independent conclusions regarding the quality of the evidence
27 disclosed, and its sufficiency for making decisions regarding
28 investigation, prosecution, licensing, placement of a child, or
29 employment as a peace officer.

30 (B) If Child Abuse Central Index information is requested by
31 an agency for the temporary placement of a child in an
32 emergency situation pursuant to Article 7 (commencing with
33 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
34 and Institutions Code, the department is exempt from the
35 requirements of Section 1798.18 of the Civil Code if compliance
36 would cause a delay in providing an expedited response to the
37 agency's inquiry and if further delay in placement may be
38 detrimental to the child.

39 (9) (A) Whenever information contained in the Department of
40 Justice files is furnished as the result of an application for

1 employment or licensing pursuant to paragraph (4) or (7), the
2 Department of Justice may charge the person or entity making
3 the request a fee. The fee shall not exceed the reasonable costs to
4 the department of providing the information. The only increase
5 shall be at a rate not to exceed the legislatively approved
6 cost-of-living adjustment for the department. In no case shall the
7 fee exceed fifteen dollars (\$15).

8 (B) All moneys received by the department pursuant to this
9 section to process trustline applications for purposes of Chapter
10 3.35 (commencing with Section 1596.60) of Division 2 of the
11 Health and Safety Code shall be deposited in a special account in
12 the General Fund that is hereby established and named the
13 Department of Justice Child Abuse Fund. Moneys in the fund
14 shall be available, upon appropriation by the Legislature, for
15 expenditure by the department to offset the costs incurred to
16 process trustline automated child abuse or neglect system checks
17 pursuant to this section.

18 (C) All moneys, other than that described in subparagraph (B),
19 received by the department pursuant to this paragraph shall be
20 deposited in a special account in the General Fund which is
21 hereby created and named the Department of Justice Sexual
22 Habitual Offender Fund. The funds shall be available, upon
23 appropriation by the Legislature, for expenditure by the
24 department to offset the costs incurred pursuant to Chapter 9.5
25 (commencing with Section 13885) and Chapter 10 (commencing
26 with Section 13890) of Title 6 of Part 4, and the DNA and
27 Forensic Identification Data Base and Data Bank Act of 1998
28 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1),
29 and for maintenance and improvements to the statewide Sexual
30 Habitual Offender Program and the DNA offender identification
31 file (CAL-DNA) authorized by Chapter 9.5 (commencing with
32 Section 13885) of Title 6 of Part 4 and the DNA and Forensic
33 Identification Data Base and Data Bank Act of 1998 (Chapter 6
34 (commencing with Section 295) of Title 9 of Part 1).

35 (c) The Department of Justice shall make available to any
36 agency responsible for placing children pursuant to Article 7
37 (commencing with Section 305) of Chapter 2 of Part 1 of
38 Division 2 of the Welfare and Institutions Code, upon request,
39 relevant information concerning child abuse or neglect reports
40 contained in the index, when making a placement with a

1 responsible relative pursuant to Sections 281.5, 305, and 361.3 of
2 the Welfare and Institutions Code. Upon receipt of relevant
3 information concerning child abuse or neglect reports contained
4 in the index from the Department of Justice pursuant to this
5 subdivision, the agency shall also notify in writing the person
6 listed in the Child Abuse Central Index that he or she is in the
7 index. The notification shall include the location of the original
8 investigative report and the submitting agency. The notification
9 shall be submitted to the person listed at the same time that all
10 other parties are notified of the information, and no later than the
11 actual judicial proceeding that determines placement.

12 If Child Abuse Central Index information is requested by an
13 agency for the placement of a child with a responsible relative in
14 an emergency situation pursuant to Article 7 (commencing with
15 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
16 and Institutions Code, the department is exempt from the
17 requirements of Section 1798.18 of the Civil Code if compliance
18 would cause a delay in providing an expedited response to the
19 child protective agency's inquiry and if further delay in
20 placement may be detrimental to the child.

21 (d) The department shall make available any information
22 maintained pursuant to subdivision (a) to out-of-state law
23 enforcement agencies conducting investigations of known or
24 suspected child abuse or neglect only when an agency makes the
25 request for information in writing and on official letterhead,
26 identifying the suspected abuser or victim by name. The request
27 shall be signed by the department supervisor of the requesting
28 law enforcement agency. The written requests shall cite the
29 out-of-state statute or interstate compact provision that requires
30 that the information contained within these reports shall be
31 disclosed only to law enforcement, prosecutorial entities, or
32 multidisciplinary investigative teams, and shall cite the criminal
33 penalties for unlawful disclosure of any confidential information
34 provided by the requesting state or the applicable interstate
35 compact provision. In the absence of a specified out-of-state
36 statute or interstate compact provision that requires that the
37 information contained within these reports shall be disclosed
38 only to law enforcement, prosecutorial entities, or
39 multidisciplinary investigative teams, and criminal penalties

1 equivalent to the penalties in California for unlawful disclosure,
2 access shall be denied.

3 (e) (1) Any person may determine if he or she is listed in the
4 Child Abuse Central Index by making a request in writing to the
5 Department of Justice. The request shall be notarized and include
6 the person's name, address, date of birth, and either a social
7 security number or a California identification number. Upon
8 receipt of a notarized request, the Department of Justice shall
9 make available to the requesting person information identifying
10 the date of the report and the submitting agency. The requesting
11 person is responsible for obtaining the investigative report from
12 the submitting agency pursuant to paragraph (11) of subdivision
13 (b) of Section 11167.5.

14 (2) No person or agency shall require or request another
15 person to furnish a copy of a record concerning himself or
16 herself, or notification that a record concerning himself or herself
17 exists or does not exist, pursuant to paragraph (1) of this
18 subdivision.

19 (f) If a person is listed in the Child Abuse Central Index only
20 as a victim of child abuse or neglect, and that person is 18 years
21 of age or older, that person may have his or her name removed
22 from the index by making a written request to the Department of
23 Justice. The request shall be notarized and include the person's
24 name, address, social security number, and date of birth.

25 *SEC. 7. If the Commission on State Mandates determines that*
26 *this act contains costs mandated by the state, reimbursement to*
27 *local agencies and school districts for those costs shall be made*
28 *pursuant to Part 7 (commencing with Section 17500) of Division*
29 *4 of Title 2 of the Government Code.*

30 ~~SECTION 1. Section 12698.02 is added to the Insurance~~
31 ~~Code, to read:~~

32 ~~12698.02. The board shall not impose as a condition of~~
33 ~~eligibility for the program a written verification of pregnancy~~
34 ~~requirement.~~

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 1228

VERSION: AMENDED APRIL 6, 2006

AUTHOR: MORROW

SPONSOR: AUTHOR

RECOMMENDED POSITION: OPPOSE UNLESS AMENDED

SUBJECT: COVENANT MARRIAGE

Existing Law:

- 1) Permits dissolution of a marriage or legal separation based on either of the following grounds: (FC § 2310)
 - Irreconcilable differences, which have caused the irreversible breakdown of the marriage.
 - Incurable insanity.
- 2) Defines “irreconcilable differences” as grounds which are determined by the court to be substantial reasons for not continuing a marriage and which make it appear that a marriage should be dissolved. (FC § 2311)
- 3) Requires the court to order the dissolution of a marriage or a legal separation of parties if the court finds that there are irreconcilable differences which have caused the breakdown of the marriage. (FC § 2333)
- 4) Requires the court to continue a proceeding for a dissolution of the marriage or legal separation for 30 days if it appears that there is a reasonable possibility of reconciliation. (FC § 2334(a))
- 5) Prohibits a judgment of dissolution from becoming final for the purpose of terminating the marriage relationship until six months from the date of service of the petition. (FC § 2339(a))
- 6) Allows the court to extend the six-month period described in subdivision for good cause. (FC § 2339(b))

This Bill:

- 1) Allows parties applying for a marriage license to mutually choose to enter into a “covenant marriage.” (FC § 351(b))
- 2) Requires parties who wish to enter into a “covenant marriage” to do the following:
 - Complete at least nine sessions of premarital education counseling within a 12-week period. (FC § 1631(b))
 - Provide the county clerk with a certificate of completion from a qualified provider declaring that the premarital education counseling requirement has been fulfilled.
 - Pay any cost associated with satisfying the premarital education counseling requirement.

- 3) Permits the required premarital education counseling or predissolution counseling to be obtained from any of the following: (FC § § 1631(b)(1)(A-F), 1631(b)(3))
 - A licensed clinical social worker
 - A clergy member or practitioner in a religious institution who performs counseling services as part of his or her pastoral or professional duties
 - A licensed marriage and family therapist
 - A licensed psychologist
 - An official representative of a religious institution performing religiously sanctioned counseling
 - Any other qualified provider approved by the county board of supervisors
- 4) Requires all premarital education counseling or predissolution counseling providers to register with the county clerk by filing a written affidavit that contains all of the following: (FC § 1631(c))
 - The provider's name, address, and telephone number.
 - A summary of the provider's qualifications, proof of valid license (if applicable), and a description of relevant training.
 - A statement that the provider complies with the course requirements.
- 5) Requires a provider to give each couple who completes the premarital education counseling a certificate of completion which includes: (FC § 1631(d))
 - The names of the couple.
 - The name of the provider.
 - The date of completion.
- 6) Requires parties to a covenant marriage who seek divorce or separation based on irreconcilable differences to complete nine sessions of predissolution counseling from a qualified provider over the course of the six-month period prior to filing the petition if either party has any custody of a minor child. (FC § 1631(e))
 - Requires at least one of the first five predissolution counseling sessions to address the impact that a divorce would have on the minor children in the marriage.
 - Requires the parties to submit to the court a certificate of completion from a qualified provider declaring that the requirement has been fulfilled.
- 7) Requires parties to a covenant marriage who do not have custody of minor children and are seeking divorce or separation based on irreconcilable differences to complete six sessions of predissolution counseling from a qualified provider over the three-month period prior to filing of a petition. (FC § 1631(f))
 - Requires the parties to submit to the court a certificate of completion from a qualified provider declaring that the requirement has been fulfilled.
- 8) Permits the court to grant dissolution or legal separation without a party being subject to the counseling requirements in the event of any of the following: (FC § 1632)
 - Spousal abuse
 - Commission of a felony
 - Adultery
 - Abandonment by the other spouse
 - Long periods of physical separation from the other spouse
- 9) Permits the court the discretion to deviate from the laws pertaining to division of the community estate in favor of the innocent spouse when it determines that a party to a covenant marriage has committed any of the following acts: (FC § 1633)

- Spousal abuse
- Commission of a felony
- Adultery
- Abandonment by the other spouse
- Long periods of physical separation from the other spouse

Comment:

- 1) **Author's Intent.** According to the author, this bill would provide an option for people to enter into a stronger marital contract. This bill would require a certain amount of counseling for those who opt to enter this type of marital contract who end up filing for divorce for irreconcilable differences. There is an exception in the event of egregious circumstances such as abuse or abandonment. This bill would help to cut down the rate of divorce, help people to reconsider their actions and avoid acting on impulse. It would also decrease the number of children living in single-parent homes.
- 2) **Premarital and Predissolution Counseling.** This bill would require a person who provides the proposed required premarital or predissolution counseling to have certain qualifications. The following additions are suggested to the proposed list of those qualified to provide such counseling:
 - *Board-certified psychiatrist* (while not their usual area of practice, they are definitely qualified to perform this service)
 - *Registrant acting under the supervision of a licensed clinical social worker, marriage and family therapist, psychologist or psychiatrist.* (Registrants include marriage and family therapist interns and associate clinical social workers)

Business and Professions Code section 4980.01 permits a "priest, rabbi, or minister of the gospel of any religious denomination" to perform counseling services "as part of his or her pastoral or professional duties." This bill would additionally permit an "official representative of a religious institution performing religiously sanctioned counseling" to perform counseling. However, an "official representative of a religious institution," is not permitted to provide counseling unless he or she is a priest, rabbi, or minister. It is unclear which other members of a religious institution the author intends to permit to provide counseling.

The bill also states that "any other qualified provider approved by the county board of supervisors" may perform the required premarital education counseling or predissolution counseling. It is unclear whom the author intended to additionally include as a qualified provider. California law already specifies who can perform marital counseling. Additionally, the bill does not provide a process for the county board of supervisors to approve "qualified providers."

- 3) **Course Requirements.** Section 1631(c)(3) requires the counseling provider, when registering with the county clerk, to provide a statement that he or she complies with specified course requirements. However, those course requirements have not been listed in this bill.
- 4) **Suggested Amendments.** Section 1632 specifies the exceptions for the required counseling, but commission of a felony cannot be proven. The following amendment is suggested:

1632. The court shall grant a dissolution of marriage or a legal separation, without a party being subject to the counseling requirements pursuant to subdivisions (e) and (f) of Section 1631, in the event of any of the following:

- (a) Spousal abuse.
- (b) ~~Commission~~ Conviction of a felony.
- (c) Adultery.
- (d) Abandonment by the other spouse.
- (e) Long periods of physical separation from the other spouse.

5) Prior Legislation. A similar bill, SB 1031 (Hollingsworth) was introduced in 2005. This bill would have required education or counseling for parties with children seeking a divorce. The classes or counseling would have been required to focus on the potential impact of separation or divorce on children. This bill failed passage in the Senate Judiciary Committee. The Board took an “opposed unless amended” position, requesting clarification of who may provide the required counseling, in order to ensure any psychotherapy is provided by a licensed therapist.

6) History

2006

Apr. 6	From committee with author's amendments. Read second time. Amended. Re-referred to committee.
Mar. 21	Set for hearing April 18.
Feb. 16	To Com. on JUD.
Feb. 7	From print. May be acted upon on or after March 9.
Feb. 6	Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1228

Introduced by Senator Morrow
(Principal coauthor: Senator Runner)
(Coauthor: Senator Battin)
(Coauthor: Assembly Member Mountjoy Coauthors: Assembly
Members DeVore and Mountjoy)

February 6, 2006

An act to amend Section 351 of, and to add Chapter 4 (commencing with Section 1630) to Part 5 of Division 4 of, the Family Code, relating to marital contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1228, as amended, Morrow. Covenant marriage.

Existing law establishes the procedures by which parties to a marriage may seek a dissolution of the marriage or a legal separation. Existing law also governs marital agreements between a husband and wife.

This bill would enact the *Voluntary Covenant Marriage and Child Protection Act* of 2006. The bill would establish procedures by which a couple may enter into a marital contract rejecting the right to a dissolution of marriage or a legal separation on grounds of irreconcilable differences, except in certain circumstances. The bill would require couples to receive—~~marital premarital education counseling before entering into a covenant marriage and predissolution counseling before divorcing~~—*filing a petition for a dissolution of marriage or legal separation. The bill would also require parties to submit to the county clerk or the court, respectively, a certificate of completion of premarital education counseling or*

predissolution counseling. The bill would also require parties to pay costs associated with satisfying the premarital education counseling requirement.

Existing law requires the parties to a marriage to obtain a license from a county clerk. Existing law requires a marriage license to contain specific information about the parties to the marriage, including their identity, real and full names, places of residence, and ages.

The bill would also require the marriage license to include a space designated for parties entering into a covenant marriage to indicate their mutual consent by ~~each's~~ *each party's* signature, as specified. ~~By~~

By increasing the duties of county clerks, the bill would result in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 351 of the Family Code is amended to
2 read:
3 351. (a) The marriage license shall show all of the following:
4 (1) The identity of the parties to the marriage.
5 (2) The parties' real and full names, and places of residence.
6 (3) The parties' ages.
7 (b) The marriage license shall also contain a space designated
8 for parties who choose to enter into a covenant marriage,
9 pursuant to Chapter 4 (commencing with Section 1630) of Part 5
10 of Division 4. The parties shall indicate their mutual consent to a
11 covenant marriage, including acknowledgment of completion of
12 premarital counseling, by each's signature within the designated
13 space on the license.

SEC. 2. Chapter 4 (commencing with Section 1630) is added to Part 5 of Division 4 of the Family Code, to read:

CHAPTER 4. ~~COVENANT MARRIAGE~~ VOLUNTARY COVENANT
MARRIAGE AND CHILD PROTECTION ACT OF 2006

1630. This chapter shall be known and may be cited as the ~~“Covenant Marriage”~~ *“Voluntary Covenant Marriage and Child Protection Act of 2006.”*

1631. (a) For couples that enter into a covenant marriage, a dissolution of the marriage or a legal separation of the parties on grounds of irreconcilable differences shall not be granted unless the requirements set forth in this chapter have been satisfied.

(b) A couple who chooses to enter into a covenant marriage shall do all of the following:

(1) Receive a minimum of ~~three hours~~ *nine sessions* of premarital ~~counseling~~ *education counseling within a 12-week period* from any of the following:

(A) A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.

(B) ~~Clergy or practitioners~~ *A clergy member or practitioner* in a religious institution performing counseling services as part of his or her pastoral or professional duties.

(C) A marriage and family ~~therapists~~ *therapist* licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(D) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(E) An official representative of a religious institution performing religiously sanctioned counseling.

(F) Any other qualified provider approved by the county board of supervisors.

(2) Indicate each parties' consent to a covenant marriage on the marriage license, along with acknowledgment of completion of premarital counseling.

~~(3) Receive a minimum of three hours of marital counseling prior to filing for a dissolution of marriage or legal separation from any one of the entities set forth in paragraph (1).~~

1 (3) Submit to the county clerk a certificate of completion from
2 one of the providers set forth in paragraph (1) declaring that the
3 premarital education counseling requirement has been fulfilled.

4 (4) Pay any cost associated with satisfying the premarital
5 education counseling requirement.

6 (c) All premarital education counseling providers in
7 paragraph (1) of subdivision (b) shall register with the county
8 clerk by filing a written affidavit that contains all of the
9 following:

10 (1) The provider's name, address, and telephone number.

11 (2) A summary of the provider's qualifications, proof of valid
12 license (if applicable), and a description of relevant training.

13 (3) A statement that the provider complies with the course
14 requirements specified in this section.

15 (d) A premarital education counseling provider shall provide
16 to each couple who completes the requirement a certificate of
17 completion that specifies all of the following:

18 (A) The names of the couple.

19 (B) The name of the provider.

20 (C) The date of completion of the premarital education
21 counseling requirement.

22 (e) If either party to a covenant marriage has full, partial, or
23 joint custody of a minor child, the parties shall receive a
24 minimum of nine sessions of predissolution counseling from any
25 of the providers set forth in paragraph (1) of subdivision (b) over
26 the course of the six-month period immediately preceding the
27 filing of a petition for dissolution of marriage or legal separation
28 before the parties may obtain a dissolution of marriage or legal
29 separation based on irreconcilable differences. At least one of
30 the first five predissolution counseling sessions shall address the
31 impact that a dissolution of marriage would have on the minor
32 children in the marriage. The parties shall submit to the court a
33 certificate of completion from one of the providers set forth in
34 paragraph (1) of subdivision (b) declaring that the predissolution
35 counseling requirement has been fulfilled.

36 (f) If neither party to the covenant marriage has full, partial,
37 or joint custody of a minor child, the parties shall receive a
38 minimum of six sessions of predissolution counseling from any of
39 the providers set forth in paragraph (1) of subdivision (b) over
40 the course of the three-month period immediately preceding the

1 *filing of a petition for dissolution of marriage or legal separation*
2 *before the parties may obtain a dissolution of marriage or legal*
3 *separation based on irreconcilable differences. The parties shall*
4 *submit to the court a certificate of completion from one of the*
5 *providers set forth in paragraph (1) of subdivision (b) declaring*
6 *that the predissolution counseling requirement has been fulfilled.*

7 1632. The court shall grant a dissolution of marriage or a
8 legal separation, without a party being subject to the counseling
9 ~~requirement~~ *requirements* pursuant to ~~paragraph (3) of~~
10 ~~subdivision (b)~~ *subdivisions (e) and (f)* of Section 1631, in the
11 event of any of the following:

12 (a) Spousal abuse.

13 (b) Commission of a felony.

14 (c) Adultery.

15 (d) Abandonment by the other spouse.

16 (e) Long periods of physical separation from the other spouse.

17 ~~1633. If a party has completed marital counseling prior to~~
18 ~~filing for a dissolution of marriage or legal separation, pursuant~~
19 ~~to paragraph (3) of subdivision (b) of Section 1631, and the party~~
20 ~~is unable to resolve differences with his or her spouse, the party~~
21 ~~may then seek a dissolution of the marriage or a legal separation~~
22 ~~on the basis of irreconcilable differences.~~

23 1633. *If the court determines that a party to a covenant*
24 *marriage has committed any of the acts listed in subdivisions (a)*
25 *to (e), inclusive, of Section 1632, the court shall have the*
26 *discretion to deviate from the manner of division of the*
27 *community estate set forth in Section 2550 in favor of the*
28 *innocent spouse.*

29 SEC. 3. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 1615

VERSION: AMENDED APRIL 4, 2006

AUTHOR: SIMITIAN

SPONSOR: AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: STATE AGENCIES: COLLECTION OF DATA: ANCESTRY OR ETHNIC ORIGIN

Existing Law:

- 1) Prohibits persons in California from being denied full and equal access to the benefits of, or being subjected to discrimination under any program that is administered by the state or funded by the state on the basis of race, national origin, ethnic group identification, religion, age, sex, color, or disability. (GC § 11135(a))
- 2) Prohibits a licensing board from printing or circulating any publication, or to make any non-job-related inquiry that expresses any limitation, specification, or discrimination as to race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, sex, age, or sexual orientation unless that board is acting in accordance with federal equal employment opportunity guidelines or regulations. (GC § 12944 (c))
- 3) Prohibits including any question on any application or form required by a state agency pertaining to the applicant's race, sex, marital status or religion. (GC § 8310)
- 4) Requires state agencies which directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for each major Asian and Pacific Islander group, including, but not limited to, Chinese, Japanese, Filipino, Korean, Vietnamese, Asian Indian, Hawaiian, Guamanian, Samoan, Laotian, and Cambodian. (GC § 8310.5)
- 5) Requires all state agencies to categorize Filipinos separately in any statistical tabulation of minority groups. (GC § 11092)
- 6) Requires all state agencies to categorize Pacific Islanders separately in any statistical tabulation of minority groups. (GC § 11092.5)
- 7) Requires the Department of Finance (DOF) to report Asian-Pacific Islanders as a distinct category and not combine Asian-Pacific Islanders into any other category. (GC § 13073.1)

This Bill:

- 1) Establishes the Heritage Respect and Recognition Act. (GC § 8310.6(a))

- 2) Requires any state entity that directly or by contract collects demographic data on the ancestry, ethnic origin, ethnicity, or race of Californians to do all of the following: (GC § 8310.6(c))
 - Provide forms that offer respondents the option of selecting one or more ethnic or racial designations pursuant to the federal Office of Management and Budget's "Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity."
 - Include all of the following when reporting data on respondents' ancestry, ethnic origin, ethnicity, or race to another state entity to be tabulated or reported:
 - The number or percentage of respondents who identify with each ethnic or racial designation alone and not in combination with any other ethnic or racial designation.
 - The number or percentage of respondents who identify with each ethnic or racial designation, whether alone or in combination with other ethnic or racial designations.
 - The number or percentage of respondents who identify with multiple ethnic or racial designations.
- 3) Requires data to be tabulated or reported in a manner that complies with the rules issued by the federal Office of Management and Budget, in cases of federally mandated actions related to an ethnic or a racial community, or related to assessing disparate impact or discriminatory patterns, when reported to any other state entity. (GC § 8310.6(c)(2)(D))
- 4) Requires all state entities to comply as early as reasonably feasible when updating forms, software, hardware, or information collection procedures, and in no event later than January 1, 2014. (GC § 8310.6(d))

Comment:

- 1) **Author's Intent.** According to the author, as the population of multiracial Californians grows, the methods for collecting data have not kept up. There has been a lot of discussion since the early 1990's on this topic, but there still seems to be a disconnect at the state level. The federal government has an interagency commission on racial classification. The formation of this commission led to the Office of Management and Budgets (OMB) developing a directive which set standards on the collection and use of racial and ethnic data. This directive, last revised in 1997, was implemented in the 2000 United States Census. All federal agencies are required to comply with this directive.
- 2) **DOF.** The Department of Finance's Demographic Research Unit provides demographic research and analysis, produces publications of current population estimates and future projections of population, and disseminates census data. The DOF generally does not collect data, it analyzes and reports on data that is already available. The DOF typically follows Federal standards where they apply.
- 3) **Self-ID vs. Ancestry.** Any collection of data pertaining to ethnic origin is complicated by the issue of self-identification of ethnicity versus ancestry. A person's ethnic affiliation may not be at all related to his or her ethnic ancestry. For example, a Chinese child adopted by an Italian family may self-identify as Italian even though her ethnic ancestry is Chinese.

This issue also impacts many people of mixed heritage, for whom it can be difficult to accurately identify ethnicity when limited to specific categories such as "African American." Additionally, ethnic groups tend to evolve, and even the name of the ethnic group can change. Over time, an individual's ethnic identity can evolve. There is not a simple answer for these issues, though this bill does help to address reporting for persons of mixed heritage.

- 4) **BBS.** The Board does not currently collect racial or ethnic data of its licensees, registrants, or applicants, but an anonymous survey is being developed. Even if this bill does not pass, the federal standards would be helpful to the Board in how to best formulate its survey and use the resulting data.

5) **Support and Opposition.**

None known at this time.

6) **History**

2006

Apr. 4	From committee with author's amendments. Read second time. Amended. Re-referred to committee.
Mar. 21	Set for hearing April 18.
Mar. 20	Set, first hearing. Hearing canceled at the request of author.
Mar. 15	Set for hearing March 28.
Mar. 9	To Com. on JUD.
Feb. 27	Read first time.
Feb. 25	From print. May be acted upon on or after March 27.
Feb. 24	Introduced. To Com. on RLS. for assignment. To print.

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AMENDED IN SENATE APRIL 4, 2006

SENATE BILL

No. 1615

Introduced by Senator Simitian

February 24, 2006

An act to ~~amend Sections 8310.5 and 19799 of~~ *add Section 8310.6* to the Government Code, relating to state agencies.

LEGISLATIVE COUNSEL'S DIGEST

SB 1615, as amended, Simitian. State agencies: collection of data: ancestry or ethnic origin.

Existing law requires state agencies, boards, or commissions that directly or by contract collect demographic data as to the ancestry or ethnic origin of Californians, and state agencies conducting surveys as to the ancestry or ethnic origin of state civil service employees, to use separate collection categories for each major Asian and Pacific Islander group.

This bill would ~~additionally enact the Ethnic Heritage Respect and Recognition Act to require these entities to ensure that data is, at a minimum, collected and tabulated~~ *any state agency, board, or commission that directly or by contract collects demographic data, as soon as reasonably feasible and in no event later than January 1, 2014, to provide forms that offer respondents the option of selecting one more ethnic or racial designation* according to specified federal standards.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 8310.6 is added to the Government*
2 *Code, to read:*

3 8310.6. (a) *This section shall be known and may be cited as*
4 *the Ethnic Heritage Respect and Recognition Act.*

5 (b) *The Legislature hereby finds and declares all of the*
6 *following:*

7 (1) *The state of California currently has the largest population*
8 *of people among the United States who identify with more than*
9 *one ancestry, ethnicity, or race. This population of Californians*
10 *who identify as multiracial is rapidly growing.*

11 (2) *Many state forms that currently require respondents to*
12 *choose only a single ancestry, ethnicity, or race force multiracial*
13 *Californians to deny a significant part of their heritage.*
14 *Information collected in this manner often deprives the state of*
15 *accurate data with which to meet the needs of its diverse*
16 *communities.*

17 (3) *It is in the best interest of the state of California to respect,*
18 *embrace, and understand the full diversity of its citizens.*

19 (4) *Respect for individual dignity should guide the processes*
20 *and methods for collecting and encoding data on ancestry,*
21 *ethnicity, and race.*

22 (5) *Since 1997, the federal Office of Management and*
23 *Budget's "Standards for Maintaining, Collecting, and Presenting*
24 *Federal Data on Race and Ethnicity" have required federal*
25 *agencies to ensure that individuals have the option of selecting*
26 *one or more ethnic or racial designations on federal government*
27 *forms requesting this information.*

28 (c) *Any state agency, board, or commission that directly or by*
29 *contract collects demographic data on the ancestry, ethnic*
30 *origin, ethnicity, or race of Californians shall do all of the*
31 *following:*

32 (1) *Provide forms that offer respondents the option of*
33 *selecting one or more ethnic or racial designations pursuant to*
34 *the federal Office of Management and Budget's "Standards for*
35 *Maintaining, Collecting, and Presenting Federal Data on Race*
36 *and Ethnicity." Recommended forms for the instruction*
37 *accompanying a multiple response question are "mark one or*
38 *more" and "select one or more."*

1 (2) *Ensure in cases when data on respondents' ancestry,*
2 *ethnic origin, ethnicity, or race is reported to any other state*
3 *agency, board, or commission that it is neither tabulated nor*
4 *reported without all of the following:*

5 (A) *The number or percentage of respondents who identify*
6 *with each ethnic or racial designation alone and not in*
7 *combination with any other ethnic or racial designation.*

8 (B) *The number or percentage of respondents who identify*
9 *with each ethnic or racial designation, whether alone or in*
10 *combination with other ethnic or racial designations.*

11 (C) *The number or percentage of respondents who identify*
12 *with multiple ethnic or racial designations.*

13 (D) *Complying with the rules issued by the federal Office of*
14 *Management and Budget in cases of federally mandated actions*
15 *related to an ethnic or a racial community, or to assessing*
16 *disparate impact or discriminatory patterns.*

17 (d) *Each state agency, board, or commission required to*
18 *comply with subdivision (c) shall comply as early as reasonably*
19 *feasible when updating forms, software, hardware, or*
20 *information collection procedures, and in no event later than*
21 *January 1, 2014.*

22 ~~SECTION 1. Section 8310.5 of the Government Code is~~
23 ~~amended to read:~~

24 ~~8310.5. Any state agency, board, or commission that directly~~
25 ~~or by contract collects demographic data as to the ancestry or~~
26 ~~ethnic origin of Californians shall do both of the following:~~

27 ~~(a) Ensure that data is, at a minimum, collected and tabulated~~
28 ~~according to standards defined by the Office of Management and~~
29 ~~Budget's current Statistical Policy Directive No. 15, Race and~~
30 ~~Ethnic Standards for Federal Statistics and Administrative~~
31 ~~Reporting.~~

32 ~~(b) Use separate collection categories and tabulations for each~~
33 ~~major Asian and Pacific Islander group, including, but not~~
34 ~~limited to, Chinese, Japanese, Filipino, Korean, Vietnamese,~~
35 ~~Asian Indian, Hawaiian, Guamanian, Samoan, Laotian, and~~
36 ~~Cambodian.~~

37 ~~SEC. 2. Section 19799 of the Government Code is amended~~
38 ~~to read:~~

39 ~~19799. When any state agency conducts any survey as to the~~
40 ~~ancestry or ethnic origin of state civil service employees, or~~

- 1 maintains any statistical tabulation of minority group employees;
2 it shall do both of the following:
- 3 (a) ~~Ensure that data is, at a minimum, collected and tabulated~~
4 ~~according to standards defined by the Office of Management and~~
5 ~~Budget's current Statistical Policy Directive No. 15, Race and~~
6 ~~Ethnic Standards for Federal Statistics and Administrative~~
7 ~~Reporting.~~
- 8 (b) ~~Use separate collection categories for each major Asian~~
9 ~~and Pacific Islander group, including, but not limited to, Chinese,~~
10 ~~Japanese, Filipino, Korean, Vietnamese, Asian Indian, Hawaiian,~~
11 ~~Guamanian, Samoan, Laotian, and Cambodian in the survey or~~
12 ~~tabulation.~~